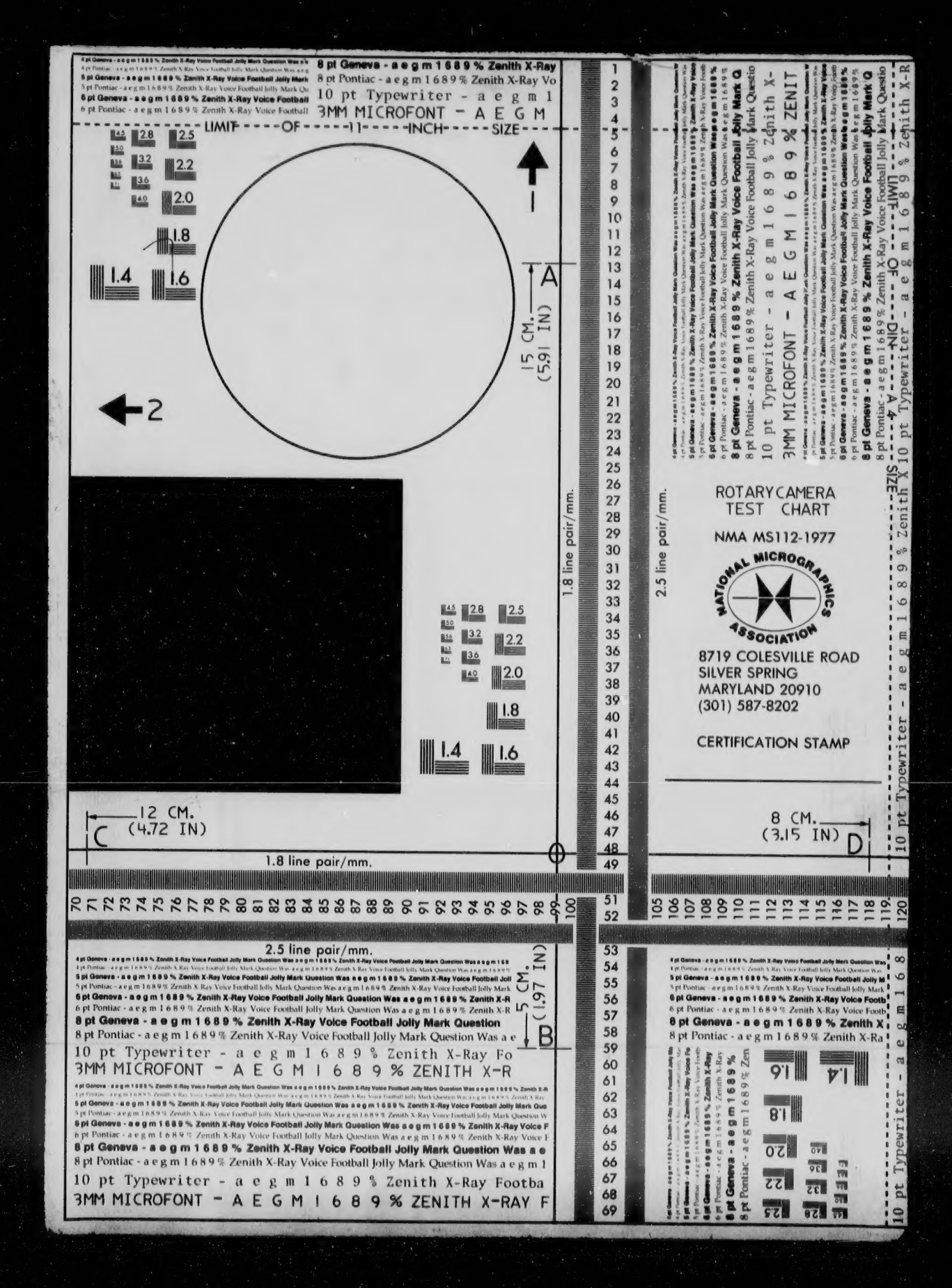
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STATE OF NORTH CAROLINA
DEPARTMENT OF CULTURAL RESOURCES

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BUNCOMBE COUNTY

CITY OF ASHEVILLE

CITY COUNCIL MINUTES

SCHEDULE REFERENCE PAGE 31 ITEM 28

DEPARTMENT OF CULTURAL RESOURCES

DIVISION OF ARCHIVES AND HISTORY

ARCHIVES AND RECORDS SECTION

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and consist of CITY COUNCIL MINUTES

The records begin with Vol: 55 Page: 1

and end with

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VOL: 55

YEAR: 1987-1988

PAGES: 1-439

Tuesday - March 24, 1987 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Kenneth Michalove and Councilman Walter R. Boland.

INVOCATION

The invocation was given by Councilman Norma Price.

APPROVAL OF THE MINUTES - MARCH 17, 1987 MEETING

1. Consideration was given to the approval of the minutes of the March 17, 1987, meeting.

Mayor Bissette announced the approval of the minutes as submitted.

PROCLAMATION - MARCH 23 - 29, 1987 - "NATIONAL GUARD WEEK"

1a. Mayor Bissette read a proclamation proclaiming the week of March 23 - 29, 1987, as "National Guard Week".

Mayor Bissette presented the proclamation to Chief Warrant Officer Ronnie Metcalf and First Lieutenant Diane McKinnis with the local National Guard.

PROCLAMATION - MARCH 25, 1987 - "GREEK INDEPENDENCE DAY: A CELEBRATION OF GREEK AND AMERICAN DEMOCRACY"

2. Mayor Bissette read a proclamation proclaiming March 25, 1987, as "Greek Independence Day: A Celebration of Greek and American Democracy".

RESOLUTION NO. 87-47 - RESOLUTION HONORING ASHEVILLE HIGH SCHOOL'S WOMEN'S BASKETBALL TEAM, 4-A STATE CHAMPIONSHIP 1986-87

2a. Mayor Bissette read a resolution honoring Asheville High School's Women's Basketball Team for winning the State 4-A Girls' State Championship for 1986-87.

Mayor Bissette recognized Coach Witherspoon, Asheville High School Principal O. L. Sherrill and the seniors from Asheville High School's Women's basketball team.

Upon motion of Vice-Mayor Frank, seconded by Councilman Price, Resolution No. 87-48 was unanimously adopted.

Complete text of Resolution No. 87-48 will be found in Resolution Book No. 16 at page 300.

RESOLUTION NO. 86-49 - RESOLUTION OF APPRECIATION TO CAPTAIN R. DEAN PLEMMONS

3. Consideration was given to a resolution of appreciation to Captain R. Dean Plemmons.

Mayor Bissette said R. Dean Plemmons has faithfully served the City of Asheville since 1960, being promoted to Captain in 1985. His retirement became effective January 1, 1987.

Mayor Bissette presented Captain Plemmons with a wooden plaque with his badge attached.

Chief John Rukavina spoke relative to Captain Plemmons' service with the City of Asheville and his appointment of Captain Tom Brooks as a replacement for Captain Plemmons.

Upon motion of Councilman Tisdale, seconded by Councilman Price, Resolution No. 87-49 was unanimously adopted.

Complete text of Resolution No. 87-49 will be found in Resolution Book No. 16 at page 301.

RESOLUTION NO. 86-50 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AMENDMENT TO THE MEMORANDUM OF UNDERSTANDING BY AND BETWEEN THE CITY OF ASHEVILLE AND SUNBELT HISTORIC PROPERTIES LIMITED PARTNERSHIP FOR THE WALL STREET PROJECT

4. Consideration was given to a resolution authorizing the Mayor to execute an amendment to the Memorandum of Understanding by and between the City of Asheville and Sunbelt Historic Properties Limited Partnership for the Wall Street Project.

Mayor Bissette said the City of Asheville and Sunbelt Historic Properties Limited Partnership entered into a Memorandum to Understanding dated December 10, 1985, setting forth the responsibilities of each party with regard to a redevelopment project for the Wall Street area. The parties now desire to amend that Agreement. The primary change to the Memorandum of Understanding is for the City to take over construction of the Parking Garage.

Upon inquiry of Ralph Bishop, the City Manager said the Parking Garage would be constructed with revenue bonds and the debt service for the revenue bonds would be paid by parking garage revenues.

Upon motion of Vice-Mayor Frank, seconded by Councilman Price, Resolution No. 87-50 was unanimously adopted.

Complete text of Resolution No. 87-50 will be found in Resolution Book No. 16 at page 302.

MUNICIPAL AGREEMENT - NORTH CAROLINA DEPARTMENT OF TRANSPORTATION - HENDERSONVILLE ROAD

5. Mayor Bissette said the resolution authorizing the Mayor to enter into a municipal agreement with the North Carolina Department of Transportation for the improvement of U.S. 25 South from I-40 to the Blue Ridge Parkway is being deleted from the agenda today.

Mayor Bissette said the Hendersonville Road widening is the Number One State Project priority in this area. He said the North Carolina Department of Transportation has requested that the City of Asheville provide approximately 25% of the right-of-way cost for the improvements, which is estimated at $4,622,000 which means the City will be asked to pay over $1,000,000 in right-of-way costs. He said it is Council's feeling that this percentage is high, higher than other municipal agreements with the North Carolina Department of Transportation. He said members of Council would like to discuss in detail with the North Carolina Department of Transportation the requested percentages. He said this improvement will not only benefit Asheville residents but also Biltmore Forest, and to a greater extent, Buncombe County residents. He said members of Council feel this request is unfair.

Vice-Mayor Frank noted that the $1,000,000 is approximately $.06 on the tax rate and a substantial cost to City taxpayers.

APPROVAL OF AMENDMENT TO THE WATER AUTHORITY BUDGET

6. Consideration was given to a motion approving an amendment to the Water Authority budget.

Mayor Bissette said as provided in the Water Agreement the budget of the Water Authority and amendments thereto must be approved by City Council and the Buncombe County Commissioners. The Water Authority amended the Fiscal 1986/87 budget to establish a contribution to the City for the Bee Tree agreement in the amount of $432,000.00. Funding is provided for East Asheville Park in the amount of $432,000.00. He said this was part of an agreement to replace one of the City's parks which was removed when the new water treatment plant was put in place at Bee Tree Reservoir. He said negotiations have been held with the Water Authority, the National Park Service, and a satisfactory resolution to the problem has finally been resolved.

Councilman Tisdale moved for the approval of the amendment to the Water Authority budget to establish a contribution for the Bee Tree Agreement in the amount of $432,000.00. This motion was seconded by Councilman Price and carried unanimously.

ORDINANCE NO. 1625 - BUDGET ORDINANCE AMENDMENT TO PROVIDE PUBLIC HOUSING MODERNIZATION (IMPROVEMENTS AT DEAVERVIEW APARTMENTS)

7. Consideration was given to a budget ordinance amendment to provide public housing modernization.

Mayor Bissette said this budget ordinance amendment will provide funds to the Housing Authority for energy conservation and safety improvements at the Deaverview Apartments Public Housing Modernization

project. $60,000 of CDBG Contingency account will be used to fund the project. He said the total project would be $228,000, mainly to replace windows and insulation at Deaverview Apartments. He said funding would be provided with $74,000 from the federal government; $94,000 from CDBG Maintenance Reserves from the Housing Authority; and $60,00 from CDBG Contingency Funds.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety. He said any individual requesting a copy of the ordinance would be furnished one at no cost.

Ralph Bishop requested a copy of the ordinance.

Vice-Mayor Frank moved for the adoption of Ordinance 1625. This motion was seconded by Councilman Tisdale.

On a roll call vote of 5-0, Ordinance No. 1625 passed on first and final reading.

Complete text of Ordinance No. 1625 will be found in Ordinance Book No. 11 at page 126.

REVIEW OF PUBLIC IMPROVEMENT SIDEWALK PROJECT

8. Mayor Bissette said the City staff and consultants have prepared the April contract for the public improvement bond project. The April contract will include reconstruction of existing sidewalks that are within one quarter of a mile of schools and community centers.

Gary McGill, consultant, presented the sidewalk project showing the streets involved in the April contract. He said this would be the first contract to be let resulting from the bond referendum. He said this contract would be advertised this week and the contract awarded in April. He said 40 streets would be involved in this particular contract which is spread around the City. He said the main areas to be covered would be sidewalks that are within one quarter of a mile of schools and community centers. He said the contract relative to street resurfacing and reconstruction would be let in September to allow for utility coordination.

APPROVAL OF CONSENT AGENDA

Resolution No. 87-51

A. Consideration of a resolution authorizing the Asheville Housing Authority to acquire parcels of land located in Clingman Avenue adjacent to the Asheville Parks, Recreation, and Public Facilities Department's Maintenance Shop.

HIGHLIGHTS: This resolution will authorize the Asheville Housing Authority to acquire parcels of land located on Clingman Avenue adjacent to the Asheville Parks, Recreation and Public Facilities Department's Park Maintenance Shop.

FISCAL IMPACT: This acquisition has been included in the 1986-87 capital improvements budget.

Resolution Book No. 16, page 303.

Resolution No. 87-52

B. Consideration of a resolution authorizing the Mayor to execute on behalf of the City of Asheville a contract with the Housing Authority of the City of Asheville for a public housing modernization project.

HIGHLIGHTS: The Housing Authority of the City of Asheville has requested funds from the City to cover a portion of the cost for a window replacement project at the Deaverview Apartments project. The project includes the installation of energy efficient windows and security screens. This project would benefit 160 low income families by reducing utility costs and making their homes more comfortable and safe.

FISCAL IMPACT: $60,000 of CDBG contingency funds will be used to fund a portion of the total $228,159.95 project cost.

Resolution Book No. 16, page 304.

Upon motion of Councilman Tisdale, seconded by Vice-Mayor Frank, the Consent Agenda was unanimously adopted.

RALPH BISHOP - FUNDING FOR RIVERFRONT PARK - LOTTERY SALES IN THE CITY OF ASHEVILLE

Ralph Bishop spoke to members of Council relative to funding for the Riverfront Park and relative to lottery sales in the City of Asheville.

CLAIMS - CAROL ANN MARTIN (SANITATION) - GLEN ANDERSON (SEWER) - MARY BAILEY (STREETS) - KATHRYN M. HORNE (INSPECTIONS) - CYNTHIA J. REDMAN (INSPECTIONS)

The City Manager presented claims received from Carol Ann Martin, Glen Anderson, Mary Bailey, Kathryn M. Horne, and Cynthia J. Redman.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

ADJOURNMENT

Mayor Bissette adjourned the meeting at 5:00 p.m.

Mayor

City Clerk

Tuesday - March 31, 1987 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter R. Boland; Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Acting Corporation Counsel Patsy Brison; City Manager Douglas O. Bean; and City Clerk William F. Wolcott, Jr.

Absent: Corporation Counsel William F. Slawter

INVOCATION

The invocation was given by Vice-Mayor Mary Lloyd Frank.

APPROVAL OF THE MINUTES - MARCH 24, 1987 MEETING

1. Consideration was given to the approval of the minutes of the March 24, 1987, meeting.

Mayor Bissette announced the approval of the minutes as submitted.

RESOLUTION NO. 87-54 - RESOLUTION APPOINTING MEMBER TO THE ASHEVILLE SCHOOL BOARD (ERBY R. OGLESBY)

1a. Consideration was given to a resolution appointing Dr. Erby R. Oglesby as a member of the Asheville School Board for a term of four years from and after the first day of April 1989, or until his successor is appointed and qualified.

Mayor Bissette read the resolution.

Upon motion of Councilman Tisdale, seconded by Vice-Mayor Frank, Resolution No. 87-54 was unanimously adopted.

Complete text of Resolution No. 87-54 will be found in Resolution Book No. 16 at page 307.

RESOLUTION NO. 87-55 - RESOLUTION APPOINTING MEMBER TO THE ASHEVILLE SCHOOL BOARD (DAVID R. HILLIER)

1b. Consideration was given to a resolution appointing David R. Hillier as a member of the Asheville School Board for a term of four years from and after the first day of April 1989, or until his successor is appointed and qualified.

Mayor Bissette read the resolution.

Upon motion of Councilman Boland, seconded by Vice-Mayor Frank, Resolution No. 87-55 was unanimously adopted.

Complete text of Resolution No. 87-55 will be found in Resolution Book No. 16 at page 308.

Mayor Bissette noted that a large number of very qualified applicants expressed interest in the Asheville School Board. He said he felt the Asheville School Board was one of the most important boards the Council makes appointments to. He said he felt members of Council had made two excellent appointments to the Asheville City School Board.

Mayor Bissette commended Dr. Donald Jones, Superintendent of the Asheville City School System, for his dedication and service to education and the City of Asheville. He said the City of Asheville is indebted to Dr. Jones for his services and, on behalf of the City Council, wished him the best in his future endeavors.

Vice-Mayor Frank was excused from the meeting due to illness.

PUBLIC HEARING - FILING OF APPLICATION FOR GRANT UNDER THE URBAN MASS TRANSPORTATION ACT OF 1964 AS AMENDED

RESOLUTION NO. 87-53 - RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION WITH THE DEPARTMENT OF TRANSPORTATION, UNITED STATES OF AMERICA FOR A GRANT UNDER THE URBAN MASS TRANSPORTATION ACT OF 1964 AS AMENDED

2. A public hearing was held relative to authorizing the filing of an application with the Department of Transportation, United States of America, for a grant under the Urban Mass Transportation Act of 1964, as amended.

Mayor Bissette said this resolution will authorize the Mayor to file an application with the U. S. Dept. of Transportation to aid in financing the operating assistance of the Asheville Transit Authority pursuant to Sec. 9 of the Urban Mass Transportation Act of 1964. The project will be for the period of July 1, 1987 through June 30, 1988.

Mayor Bissette opened the public hearing at 4:18 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Carl Owenby, with the Asheville Transit Authority, said this grant is an annual operating assistance grant received from the Department of Transportation; United States of America.

Mayor Bissette closed the public hearing at 4:21 p.m.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety. He said any individual requesting a copy of the resolution would be furnished one at no cost.

Upon motion of Councilman Tisdale, seconded by Councilman Price, Resolution No. 87-53 was unanimously adopted.

Complete text of Resolution No. 87-53 will be found in Resolution Book No. 16 at page 305 and 306.

PUBLIC HEARING - REZONING PROPERTY LOCATED OFF SWEETEN CREEK ROAD (MR. GEORGE MOROSANI

ORDINANCE NO. 1626 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED, PETITION OF MR. GEORGE MOROSANI, PROPERTY LOCATED OFF OF SWEETEN CREEK ROAD

3. A public hearing was held relative to rezoning Lot 93, Sheet 55, Ward 7, from R-5 Residential District to CS Commercial Service District.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held February 18, 1987, considered the petition of Mr. George Morosani, Agent for Mr. David Knapp, Owner, that Lot 93, Sheet 55, Ward 7, be rezoned from R-5 Residential District to CS Commercial Service District. The property is located off Sweeten Creek Road. After review and discussion, the Commission voted to recommend to City Council that Lot 93, Sheet 55, Ward 7, be rezoned from R-5 Residential District to CS Commercial Service District.

Mayor Bissette opened the public hearing at 4:24 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the property in question is located on Sweeten Creek Road behind Morosani's mini-warehouses at 1130 Sweeten Creek Road. By the use of a map, he reviewed the location of the property in question and the accesses to be used.

Mr. Emrick said the Planning and Zoning Commission recommended approval of the rezoning without any stipulations.

Mayor Bissette closed the public hearing at 4:27 p.m.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety. He said any individual requesting a copy of the ordinance would be furnished one at no cost.

Councilman Michalove moved for the adoption of Ordinance No. 1626. This motion was seconded by Councilman Tisdale.

On a roll call vote of 6-0, Ordinance No. 1626 passed on first reading.

Councilman Michalove moved to suspend the rules and proceed to the second reading of Ordinance No. 1626. This motion was seconded by Councilman Tisdale, and carried on a voice vote of 5-1 with Councilman Price voting "no".

On a roll call vote of 6-0, Ordinance No. 1626 passed on second reading.

APPROVAL OF CONSENT AGENDA

4. Consideration was given to a motion approving the Consent Agenda.

Mayor Bissette said the following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

Resolution No. 87-56

A. Resolution authorizing the Data Processing Director to sign user agreements for the Asheville/Buncombe Regional Criminal Justice Information System.

HIGHLIGHTS: New criminal justice agencies desire to use the facilities of the Asheville/Buncombe Regional Criminal Justice Information System. The Asheville Police Department and the Buncombe County Sheriff's Department desire to continue to offer the use of the facilities. This resolution will authorize the Data Processing Director to sign user agreements for the criminal justice agencies who qualify under any applicable laws, regulations or standards of the North Carolina Division of Criminal Information.

FISCAL IMPACT: The Data Processing Division bills all user agencies in full for services rendered. The revenues and expenditures are included in the City's FY 86/87 and 87/88 budgets.

Resolution Book 16 - page 309

Resolution No. 87-57

B. Resolution approving and adopting a standard schedule for the retention and disposition of electronic data processing public records and any subsequent additions, deletions or amendments to the State's municipal records retention and dispositions schedule.

HIGHLIGHTS: Resolution No. 85-100 adopted and approved the Municipal Records Retention and Disposition Schedule issued in June, 1984, by the North Carolina Department of Cultural Resources, Division of Archives and History. This resolution will approve and adopt a standard schedule for the retention and disposition of data processing public records as submitted by the North Carolina Department of Cultural Resources, Division of Archives and History; and other changes to the State's Municipal Records Retention and Disposition schedule as they are made.

Resolution Book 16 - page 310

C. **Motion relative to bids received for two-way portable and mobile radios.**

HIGHLIGHTS: Sealed bids were invited to furnish twelve (12) portable radios to the Police Department; one (1) portable radio to Parks, Recreation and Public Facilities Department; six (6) mobile radios to the Public Works Department; and four (4) portable radios to the Fire Department. Two bids were received. John Miall, Employee Services Manager, recommends the acceptance of the bid from Motorola C & E, Inc. as the lowest bid meeting specifications.

FISCAL IMPACT: $25,389.00 - Funds for the purchase of these radios are provided in the individual budgets of each requesting department.

D. **Motion that the City Council of the City of Asheville hereby expresses its commitment to the Head of Montford Redevelopment Plan as adopted by City Council on March 17, 1987 by directing that a majority of the CDBG entitlement funds for the next three years (if available from HUD) be used for activities in Montford. Provided, however, that the actual commitment for expenditures of CDBG funds shall be in accordance with HUD regulations and other applicable law.**

Resolution No. 87-58

E. **Consideration of a resolution authorizing the City Manager to execute on behalf of the City of Asheville an agreement by and between Glave Newman Anderson Architects, P.C., and the City of Asheville for architectural services for the Wall Street Parking Garage.**

HIGHLIGHTS: The City of Asheville has entered into an agreement with Sunbelt Historic Properties Limited Partnership wherein the City will construct a parking garage complex in the Wall Street Redevelopment Project. This resolution will authorize the City Manager to execute on behalf of the City of Asheville an agreement with Glave Newman Anderson Architects, P.C. for architectural services for the Wall Street Parking Garage.

FISCAL IMPACT: Funding for this agreement in the amount of $181,100 comes from Wall Street Project funding.

Resolution Book 16 - page 311

Upon motion of Councilman Price, seconded by Councilman Michalove, the consent agenda was unanimously approved.

RESOLUTION NO. 87-59 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE AN AMENDMENT TO THE UDAG GRANT AGREEMENT FOR THE PACK PLAZA REDEVELOPMENT PROJECT

The City Manager said the City of Asheville and the United States Department of Housing and Urban Development entered into a grant agreement for an Urban Development Action Grant for the Pack Plaza Redevelopment Project and the City and the Department now desire to amend the grant agreement. He said this amendment deals with technical changes in order to deal with timetables relative to the project. He said this amendment will allow the release of UDAG funds.

Upon motion of Councilman Michalove, seconded by Councilman Bratton, Resolution No. 87-59 was unanimously adopted.

Complete text of Resolution No. 87-59 will be found in Resolution Book No. 16 at page 312.

AUTHORIZATION OF FINAL SETTLEMENT RELATIVE TO STEPHENS LEE RECREATION CENTER REROOFING SERVICES

At the request of the Acting Corporation Counsel, Patsy Brison, Councilman Tisdale moved to authorize final settlement of a claim against Sunbelt Roofing Services, Inc. for damages to the ceiling at Stephens-Lee Recreation Center in the amount of $7,000.00. This motion was seconded by Councilman Boland and carried unanimously.

CLAIMS - DIANA GLOVER (SANITATION)

The City Manager presented a claim received from Diana Glover.

Mayor Bissette referred the claim to the Corporation Counsel for investigation and recommendation.

LAWSUIT - JERRY N. JONES VS. CITY OF ASHEVILLE BOARD OF ADJUSTMENT

The City Manager said the City was served on March 26, 1987, with a lawsuit involving Jerry N. Jones vs. City of Asheville Board of Adjustment relative to an appeal from the Board of Adjustment decision.

Mayor Bissette referred the lawsuit to the Corporation Counsel for investigation and recommendation.

REVEREND JAMES WILLS - COMMENT RELATIVE TO BARFIELD STREET

Reverend James Wills of 23 Barfield Street spoke to members of Council relative to the condition of Barfield Street. He said in connection with the Montford Redevelopment Plan, 2" of asphalt has been recommended for Barfield Street. He suggested that the hill on Barfield Street be pushed down before resurfacing and that the street be widened to at least 12'.

Mayor Bissette requested that the City Manager review the Montford Redevelopment Plan as it relates to Barfield Street and Reverend Wills' request for improvements.

STEVE WILBURN, PRESIDENT NAACP - COMMENTS RELATIVE TO AFFIRMATIVE ACTION PLAN

Steve Wilburn, President of the NAACP, requested information relative to the status of the Affirmative Action Plan, why it has been on hold; and when a public hearing would be held relative to the plan.

Mayor Bissette, responding to Mr. Wilburn, said the Affirmative Action Plan was put on hold at the request of the Equal Opportunity Employment Committee pending receipt of proposed changes to the Civil Service Law from the City's consultant, Don Hayman, former employee of the Institute of Government. He said it was his understanding that Mr. Hayman would be finalizing his recommendations relative to the Civil Service Law this week.

Dorothy Arrowood, of 126 Vance Crescent, questioned whether or not the City would be hiring an overall recruiter for affirmative action as recommended by the Equal Opportunity Employment Commission.

Mayor Bissette, responding to Ms. Arrowood, said the City Council has not yet approved the affirmative action plan but, when it is considered, this recommendation would also be considered.

MATTHEW BACOATE, COMMENTS RELATIVE TO ASHEVILLE CITY SCHOOL BOARD APPOINTMENTS

Matthew Bacoate, of 67 Clingman Avenue, President of the Central Asheville Concerned Citizens Association, expressed appreciation to members of Council for their appointments to the Asheville City School Board. He said he felt these appointments would maintain equitable representation on the school board in our community.

RALPH BISHOP - COMMENTS RELATIVE TO PROPOSED ANNEXATION AND LOTTERY SALES

Ralph Bishop again spoke to members of Council relative to the proposed annexation study and lottery sales in the City of Asheville.

ADJOURNMENT

Mayor Bissette adjourned the meeting at 5:00 p.m.

Mayor

City Clerk

Tuesday - April 7, 1987 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter R. Boland; Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Deputy City Clerk Carol Hensley.

Absent: Associate City Manager/City Clerk William F. Wolcott, Jr.

INVOCATION

Councilman Bratton led the audience in a moment of silent prayer.

APPROVAL OF THE MINUTES - MARCH 31, 1987 MEETING

1. Consideration was given to the approval of the minutes of the March 31, 1987 meeting.

Mayor Bissette announced the approval of the minutes as submitted.

PROCLAMATION - APRIL 11-18, 1987 - "COMMUNITY DEVELOPMENT WEEK"

2. Mayor Bissette read a proclamation proclaiming April 11-18, 1987 as "Community Development Week".

Marvin Verria, Community Development Director, briefly outlined the purpose of Community Development Block Grant Funds. He said Community Development Week will create public awareness for the need of Community Development Block Grant Funds. He encouraged Council members to request the legislators to continue to support the Community Development Block Grant Funds. He said a vote would be taken in the House on April 8, 1987, regarding Community Development Grant Funds.

Councilman Price moved that the appropriate City staff person contact our local Congressman or representative to encourage his support relative to Community Development Block Grant Funds. This motion was seconded by Councilman Boland and carried unanimously.

PROCLAMATION - APRIL 12-18, 1987 - "MEDICAL LABORATORY WEEK"

3. Mayor Bissette read a proclamation proclaiming April 12-18, 1987, as "Medical Laboratory Week".

Mayor Bissette presented the proclamation to Susan McConnell, Western North Carolina Coordinator for "Medical Laboratory Week".

PROCLAMATION - WEEK OF APRIL 13, 1987 - "SPECIAL POPULATIONS WEEK".

4. Mayor Bissette read a proclamation proclaiming the Week of April 13, 1987, as "Special Populations Week".

Mayor Bissette presented the proclamation to Grace Walker, Special Programs Director for the YWCA.

Mrs. Walker said in connection with "Special Populations Week" a swim meet would be held on April 14, 1987, at the YWCA, and the track meet would be on April 16th at T. C. Roberson High School.

PROCLAMATION - APRIL, 1987 - "CABLE TELEVISION MONTH"

5. Mayor Bissette read a proclamation proclaiming April, 1987, as "Cable Television Month".

Mayor Bissette presented the proclamation to Joe Haight, General Manager of Asheville Cablevision.

Mr. Haight introduced his Senior Management Team from Asheville Cablevision.

Doug Benton, Marketing Director with Asheville Cablevision, outlined the events that would take place during "Cable Television Month".

PUBLIC HEARING - CLOSING GEORGE WASHINGTON CARVER AVENUE, HAID STREET, GULLY STREET, PORTIONS OF MAX STREET, KNOB STREET AND GRAIL STREET AND AN UNNAMED ALLEY

6. A public hearing was held relative to a resolution to close George Washington Carver Avenue, Haid Street, Gully Street, portions of Max Street, Knob Street and Grail Street and an unnamed alley.

Mayor Bissette said a petition has been filed by The Housing Authority of the City of Asheville requesting that certain streets and a public alley be permanently closed to public use. The streets and public alley are under the sole and exclusive authority and control of the City of Asheville and are not under the authority and control of the North Carolina Department of Transportation. The permanent closing of these streets and public alley would not be either detrimental to or contrary to the public interest or the property rights of any individual. By permanent closing of these streets and public alley, no individual owning property in the vicinity would be deprived of ingress and egress to his property.

Mayor Bissette opened the public hearing at 4:37 p.m.

The Deputy City Clerk presented the notice to the public setting the time and date of the public hearing and the affidavit of publication.

Mayor Bissette said it was noted in the pre-Council work session that the public hearing should be continued due to a legal matter that should be concluded before closing of the streets.

Ed Vess, with The Asheville Housing Authority, said one property owner adjoining the streets to be closed had not been notified.

Vice-Mayor Frank moved to continue the public hearing relative to a resolution to close George Washington Avenue, Haid Street, Gully Street, portions of Max Street, Knob Street and Grail Street and an unnamed alley until April 28, 1987, without further advertisement. This motion was seconded by Councilman Price and carried unanimously.

ORDINANCE NO. 1626 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED, PETITION OF MR. GEORGE MOROSANI, PROPERTY LOCATED OFF SWEETEN CREEK ROAD

7. Consideration was given to the third reading of Ordinance No. 1626, an Ordinance amending Ordinance No. 322, known as "an Ordinance providing for the zoning of the City of Asheville," as amended, petition of Mr. George Morosani, property located off Sweeten Creek Road.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held February 18, 1987, considered the petition of Mr. George Morosani, Agent for Mr. David Knapp, Owner, that Lot 93, Sheet 55, Ward 7, be rezoned from R-5 Residential District to CS Commercial Service District. The property is located off Sweeten Creek Road. After review and discussion, the Commission voted to recommend to City Council that Lot 93, Sheet 55, Ward 7, be rezoned from R-5 Residential District to CS Commercial Service District. This ordinance passed first and second reading at the March 31, 1987 meeting.

Mayor Bissette said this ordinance was previously read on first and second reading and would not be reread in its entirety.

On a roll call vote of 7-0, Ordinance No. 1626 passed on third and final reading.

Complete text of Ordinance No. 1626 will be found in Ordinance Book No. 11 at Page 127.

APPROVAL OF CONSENT AGENDA

8. Consideration was given to a motion approving the consent agenda.

Mayor Bissette said the following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

Resolution No. 87-60

A. Resolution of Intent to close unnamed alley between Ridgeway Avenue and Toxaway Street and calling a public hearing on the question for May 12, 1987.

HIGHLIGHTS: A petition has been filed by Paul A. Bradish and Marion Kuykendall requesting that an unnamed alley between Ridgeway Avenue and Toxaway Street be permanently closed to the public use. This alley is under the sole and exclusive authority and control of the City of Asheville and is not under the authority of NC DOT. Permanent

closing of this unnamed alley would not be either detrimental to or contrary to the public interest or the property rights of any individual and no individual owning property in the vicinity of this alley would be deprived of ingress and egress to his property.

FISCAL IMPACT: None

Resolution Book No. 16 - Page 313

Resolution No. 87-61

B. Resolution authorizing the City Manager of the City of Asheville to enter into an agreement with Asbes-Tec, Inc., to remove asbestos from the hot water tank and pipe in Fire Station #7, Library and Recreation Center in North Asheville.

HIGHLIGHTS The City desires to replace the hot water tank in the Fire Station, Library and Recreation Center in North Asheville in accordance with the laws of the State of North Carolina. This resolution will authorize the City Manager to enter into an agreement with Asbes-Tec, Inc. for the removal of the asbestos from the hot water tank and pipes of the Fire Station, Library and Recreation Center.

FISCAL IMPACT: Total amount - $3,695.00

Resolution Book No. 16 - Page 314

Upon motion of Councilman Price, seconded by Vice-Mayor Frank, the Consent Agenda was unanimously approved.

CANCELLATION OF CITY COUNCIL MEETING - APRIL 21, 1987

9. Mayor Bissette noted that the Asheville City Council meeting scheduled for April 21, 1987, would be cancelled due to the Easter holidays.

CERTIFICATE OF APPOINTMENT - THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE (LOGAN DELANY)

10. Mayor Bissette announced the appointment of Mr. Logan D. Delany as a member of The Housing Authority of the City of Asheville to serve the unexpired term of Jesse Ray, Sr., term expiring June 11, 1989, due to Mr. Ray's resignation.

INTRODUCTION OF CHARLES PENNY - ASSISTANT CITY MANAGER

11. City Manager, Doug Bean, introduced Charles Penny, Asheville's new Assistant City Manager.

CLAIMS - MARCIA BROWN (SANITATION)

12. The City Manager presented a claim received from Marcia Brown.

Mayor Bissette referred the claim to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP - ASHEVILLE POLICE DEPARTMENT - LOTTERY SALES

13. Ralph Bishop again spoke to members of Council relative to the lottery sales in the City of Asheville.

ADJOURNMENT

Mayor Bissette adjourned the meeting at 4:50 p.m.

MAYOR

CITY CLERK

Tuesday - April 14, 1987 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter R. Boland; Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean and Deputy City Clerk Carol Hensley.

Absent: Associate City Manager/City Clerk William F. Wolcott, Jr.

INVOCATION

The invocation was given by Councilman Wilhelmina Bratton.

APPROVAL OF THE MINUTES - APRIL 7, 1987 MEETING

1. Consideration was given to the approval of the minutes of the April 7, 1987 meeting.

Mayor Bissette announced the approval of the minutes as submitted.

PROCLAMATION - APRIL 19-25, 1987 - "CONSUMERS WEEK"

2. Mayor Bissette read a proclamation proclaiming April 19-25, 1987, as "Consumers Week".

Mayor Bissette presented the proclamation to Norma Messer with the Better Business Bureau.

PROCLAMATION - WEEK OF APRIL 20, 1987 - "SECRETARIES WEEK"

2a. Mayor Bissette read a proclamation proclaiming the week of April 20, 1987, as "Secretaries Week".

RECOGNITION OF STREET DEPARTMENT EMPLOYEES - SNOW REMOVAL

2b. Mayor Bissette recognized several street department employees who were involved in the recent substantial unexpected snowstorm all of which worked hard and long hours in the snow and ice removal.

Clark Brown, Public Works Director, introduced the employees who oversee the operation of snow and ice removal.

ORDINANCE - AMENDING CHAPTER 27 (TAXICABS)

3. Consideration was given to an ordinance amending Chapter 27 (Taxicabs) of the Code of Ordinances of the City of Asheville.

Mayor Bissette said the Legal Department had met with taxicab owners and operators relative to amending the Taxicab Ordinance. He said they had requested a delay in consideration of this ordinance for approximately four weeks.

ORDINANCE NO. 1627 - AN ORDINANCE AMENDING SECTION 28-81.2(B) OF ARTICLE IV, SPEED REGULATIONS, OF CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

4. Consideration was given to an ordinance amending Section 28.81.2(b) of Article IV, Speed Regulations, of Chapter 28 of the Code of Ordinances of the City of Asheville.

Mayor Bissette said this ordinance will lower the speed limit on Chiles Avenue from 35 m.p.h. to 20 m.p.h.

Bob McDonald, Traffic Engineer, said after investigation and review of the request to lower the speed limit on Chiles Avenue from 35 m.p.h. to 20 m.p.h., it would be his recommendation that Council institute the 20 m.p.h. on Chiles Avenue.

Kathryn Agger, of Chiles Avenue, said many of her neighbors have also requested the 20 m.p.h. speed zone because of the traffic flow patterns, no sidewalks, very narrow streets, and the speed on the street being too high for safety.

Vice-Mayor Frank moved for the adoption of Ordinance No. 1627. This motion was seconded by Councilman Boland.

On a roll call vote of 7-0, Ordinance No. 1627 passed on first reading.

RESOLUTION NO. 87-62 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH TRACONEX, INC., OF SANTA CLARA, CALIFORNIA, FOR THE PURCHASE OF TRAFFIC SIGNAL EQUIPMENT FOR THE CITY OF ASHEVILLE

5. Consideration was given to a resolution authorizing the City Manager to execute a contract with Traconex, Inc., of Santa Clara, California, for the purchase of traffic signal equipment for the City of Asheville.

Mayor Bissette said this action will provide for the manufacture and delivery of closed-loop traffic signal equipment for forty-five (45) intersections in Asheville's Central Business District. Three (3) bids were received and evaluated, and based upon that evaluation, the firm of Traconex, Inc. is determined to be the most responsive bidder. It is anticipated that equipment delivery will be mid-summer, with the City's Traffic Engineering Division beginning the installation of this equipment immediately upon delivery. Engineers estimate the fiscal impact to be $386,000. Of this amount, approximately 65% or $180,460 will be the City's portion of the total project cost.

Bob McDonald, Traffic Engineer, said the new equipment will allow for new traffic signal installations at 45 intersections in the downtown area with four major control areas. He said this would allow the change of sequence and traffic patterns during heavy traffic demands in order to move traffic more efficiently. He said it is his recommendation that the bid of Traconex, Inc. in the amount of $277,630 be accepted. He said the bid is subject to approval of the North Carolina Department of Transportation.

Upon motion of Councilman Tisdale, seconded by Councilman Boland, Resolution No. 87-62 was unanimously adopted.

Complete text of Resolution No. 87-62 will be found in Resolution Book No. 16 at page 315.

RESOLUTION NO. 87-63 - RESOLUTION APPROVING THE SELECTION OF WACHOVIA BANK AND TRUST CO., N.A. AND FIRST UNION NATIONAL BANK FOR UNDERWRITING AND FINANCIAL ADVISORY SERVICES RELATED TO FUNDING FOR THE WALL STREET AND RANKIN AVENUE PARKING GARAGES

6. Consideration was given to a resolution approving the selection of Wachovia Bank and Trust Co., N.A. and First Union National Bank for underwriting and financial advisory services related to funding for the Wall Street and Rankin Avenue Parking Garages.

Mayor Bissette said City Council has determined the need for the Wall Street and Rankin Avenue Parking Garages to support downtown development. Altenate methods for funding the garages have been explored. An arrangement which calls for the issuance of Certificates of Participation has been selected as the most appropriate funding method. Investment banking services must be utilized to implement this funding. Proposals have been received from seven organizations. This resolution will authorize the selection of a financial advisor to provide underwriting, investment banking, and related financial advisory services incident to the funding of the Wall Street and Rankin Avenue Parking Garages. This action will ultimately result in a gross debt of approximately $6,500,000, the net proceeds of which will be used to build or acquire the Wall Street and Rankin Avenue Parking Garages. It is anticipated that net parking revenues will be used to pay the debt service on this obligation.

The City Manager noted that the staff had analyzed seven different proposals for financial advisory services. He said it is his recommendation that the City select the proposals of Wachovia Bank and Trust Co., N.A. and First Union National Bank. He said First Union and Wachovia have agreed to work together on the advisory services.

Upon inquiry of Ralph Bishop, the City Manager said the financial advisory services would be paid out of bond proceeds.

Upon motion of Councilman Michalove, seconded by Vice-Mayor Frank, Resolution No. 87-63 was unanimously adopted.

Complete text of Resolution No. 87-63 will be found in Resolution Book No. 16 at page 316.

RESOLUTION NO. 87-64 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR A JUSTICE ASSISTANCE ACT GRANT THROUGH THE NORTH CAROLINA DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY

7. Consideration was given to a resolution authorizing the City Manager to apply for a Justice Assistance Act Grant through the North Carolina Department of Crime Control and Public Safety.

Mayor Bissette said this resolution will authorize the filing of an application for a Justice Assistance Act Grant. These funds will allow the Asheville Police Department to establish a Victim Assistance Program to insure that victims of crime or their survivors receive all of the community services that are available and/or necessary to the victim to regain their physical and emotional well being. Grant revenues - $24,905 to be matched by the City from existing personnel salaries.

Upon motion of Councilman Bratton, seconded by Councilman Boland, Resolution No. 87-64 was unanimously adopted.

Complete text of Resolution No. 87-64 will be found in Resolution Book No. 16 at page 317.

RESOLUTION NO. 87-65 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN AGREEMENT FOR DEVELOPMENT OF AN FY 1986 COST ALLOCATION PLAN

8. Consideration was given to a resolution authorizing the City Manager to sign an agreement for development of an FY 1986 Cost Allocation Plan.

Mayor Bissette said this resolution will authorize the City Manager to execute an agreement with David M. Griffith and Associates, Ltd., for the development of cost allocation plans which allocate audited FY '86 costs. The contract amount of $6,500 is included in the FY '87 budget.

The City Manager said this was an annual contract for the cost allocation plan at the same cost as previous years. He said this plan is particularly needed for the Community Development Block Grant funding.

Upon motion of Councilman Price, seconded by Vice-Mayor Frank, Resolution No. 87-65 was unanimously adopted.

Complete text of Resolution No. 87-65 will be found in Resolution Book No. 16 at page 318.

RESOLUTION NO. 87-66 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE A FEDERAL AVIATION GRANT AGREEMENT, PROJECT NO. 3-37-0005-08

9. Consideration was given to a resolution authorizing the Mayor to execute on behalf of the City of Asheville a Federal Aviation Grant Agreement, Project No. 3-37-0005-08.

Mayor Bissette said the Federal Aviation Administration has offered a grant agreement to the Asheville Regional Airport Authority in the amount of $595,296.00. He said the City of Asheville and the County of Buncombe are co-sponsors of the grant agreement and the FAA requires each sponsor to execute the grant agreement. He said the project would consist of installing terminal security video system; replace radios for CFR vehicles; obstruction removal, Runway 16 Approach; overlay parallel taxiway and north apron connecting taxiway; and to install an MITL.

Upon motion of Councilman Boland, seconded by Councilman Tisdale, Resolution No. 87-66 was unanimously adopted.

Complete text of Resolution No. 87-66 will be found in Resolution Book No. 16 at page 319.

Mayor Bissette introduced the new Airport Manager, Mr. Jim Parker.

RESOLUTION NO. 87-67 - RESOLUTION OF INTENT TO AUTHORIZE AN EXCHANGE OF PROPERTY WITH UNITED STATES CELLULAR, INC.

10. Consideration was given to a resolution of intent to authorize an exchange of property with United States Cellular, Inc.

Corporation Counsel Slawter said this agreement with United States Cellular, Inc. will provide for a lease of City-owned property located at White Fawn Reservoir and Brown Mountain Reservoir in exchange for two radio communications towers to be constructed at those locations by United States Cellular, Inc. at their expense. He said action would be taken on this resolution, after due notice to the public, at the regular Council meeting on April 28, 1987.

Upon motion of Vice-Mayor Frank, seconded by Councilman Michalove, Resolution No. 87-67 was unanimously adopted.

Complete text of Resolution No. 87-67 will be found in Resolution Book No. 16 at page 320.

RESOLUTION NO. 87-68 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE REGIONAL AIRPORT AUTHORITY (STEVE WOODY)

11. Consideration was given to a resolution appointing Steve Woody as a member of the Asheville Regional Airport Authority.

Upon motion of Vice-Mayor Frank, seconded by Councilman Michalove, Resolution No. 87-68 was unanimously adopted.

Complete text of Resolution No. 87-68 will be found in Resolution Book No. 16 at page 321.

COUNCILMAN BOLAND - COMMENTS RELATIVE TO WESTERN NORTH CAROLINA TOMORROW TASK FORCE REPORT RELATIVE TO OUTDOOR ADVERTISING

12. Councilman Boland commented on the recent report of the Western North Carolina Tomorrow Task Force relative to outdoor advertising. He said the Task Force consist of 17 County organizations and has recommended legislation concerning outdoor advertising in relation to economic and environmental concerns. He said the report proposes legislation and guidelines for outdoor advertising. He requested that the City staff obtain copies of the report for all members of Council.

ANNOUNCEMENT OF CANCELLATION OF COUNCIL MEETING FOR APRIL 21, 1987

Mayor Bissette noted that the regularly scheduled Council meeting for April 21, 1987 has been cancelled due to the Easter holidays.

CLAIMS - JOYCE LANNING (WATER) - JEFFREY CLONNINGER (STREETS) - ROSEMARY STEARNS (STREETS) - ROBERT J. BROWN (STREETS)

The City Manager presented claims received from Joyce Lanning, Jeffrey Clonninger, Rosemary Stearns, and Robert J. Brown.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP - COMMENTS RELATIVE TO THE ASHEVILLE POLICE DEPARTMENT AND LOTTERY SALES

Ralph Bishop again spoke to members of Council relative to the Asheville Police Department and lottery sales in the City of Asheville.

ADJOURNMENT

Mayor Bissette adjourned the meeting at 5:00 p.m.

Mayor

City Clerk

Tuesday - April 28, 1987 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter R. Boland; Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Kenneth Michalove.

APPROVAL OF THE MINUTES - APRIL 14, 1987 MEETING

1. Consideration was given to the approval of the minutes of the April 14, 1987, meeting.

Mayor Bissette announced the approval of the minutes as submitted.

PROCLAMATION - MAY 1-7, 1987, "RESPECT FOR LAW WEEK"

2. Mayor Bissette read a proclamation proclaiming May 1-7, 1987, as "Respect for Law Week".

Mayor Bissette presented the proclamation to David Gantt, President of the Optimist Club.

PROCLAMATION - APRIL 28 - "DEPARTMENT OF PARKS, RECREATION AND PUBLIC FACILITIES VOLUNTEER RECOGNITION DAY"

3. Mayor Bissette read a proclamation proclaiming April 28 as "Department of Parks, Recreation and Public Facilities Volunteer Recognition Day".

Mayor Bissette presented the proclamation to Ray Kisiah, Director of Parks, Recreation and Public Facilities, Donnie Luke and Bill Ashe, with the Asheville Volleyball Club.

PROCLAMATION - APRIL 26 - MAY 2, 1987 - "AMERICAN HOME WEEK"

4. Mayor Bissette read a proclamation proclaiming April 26 - May 2, 1987 as "American Home Week".

Mayor Bissette said he had presented the proclamation to Diana Schommer, with the Asheville Board of Realtors. He said in connection with American Home Week, the Asheville Board of Realtors had completely remodeled an elderly person's home in Oakley and commended the Asheville Board of Realtors for this project.

PROCLAMATION APRIL 26 - MAY 3, 1987 - "DAYS OF REMEMBRANCE OF THE VICTIMS OF THE HOLOCAUST"

5. Mayor Bissette read a proclamation proclaiming April 26 - May 3, 1987 as "Days of Remembrance of the Victims of the Holocaust".

Mayor Bissette presented the proclamation to Rabbi Elliot H. Pearlson, Congregation with the Beth Israel Synogogue.

PROCLAMATION - MAY 1, 1987 - "LOYALTY DAY"

6. Mayor Bissette read a proclamation proclaming May 1, 1987 as "Loyalty Day".

Mayor Bissette presented the proclamation to Mr. & Mrs. Paul Quinn.

PROCLAMATION - APRIL 26 - MAY 2, 1987 - "COMMUNITY DEVELOPMENT WEEK"

6a. Mayor Bissette read a proclamation proclaming April 26 - May 2, 1987, as "Community Development Week".

Mayor Bissette presented the proclamation to Kenneth R. Reeves, County Extension Director for Buncombe County.

PUBLIC HEARING - CLOSING OF GEORGE WASHINGTON CARVER AVENUE, HAID STREET, GULLY STREET, PORTIONS OF MAX STREET, KNOB STREET AND GRAIL STREET, AND AN UNNAMED ALLEY

RESOLUTION NO. 87-69 - RESOLUTION TO CLOSE GEORGE WASHINGTON CARVER AVENUE, HAID STREET, GULLY STREET, PORTIONS OF MAX STREET, KNOB STREET AND GRAIL STREET, AND AN UNNAMED ALLEY

7. Consideration was given to a resolution to close George Washington Carver Avenue, Haid Street, Gully Street, portions of Max Street, Knob Street and Grail Street, and an unnamed alley.

Mayor Bissette said a petition has been filed by the Housing Authority of the City of Asheville requesting that certain streets and a public alley be permanently closed to public use. The streets and public alley are under the sole and exclusive authority and control of the City of Asheville and are not under the authority and control of the North Carolina Department of Transportation. The permanent closing of these streets and public alley would not be either detrimental to or contrary to the public interest or the property rights of any individual. By permanent closing of these streets and public alley, no individual owning property in the vicinity would be deprived of ingress and egress to his property. This public hearing was continued from the April 7, 1987 meeting.

Mayor Bissette opened the public hearing at 4:40 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing, and the affidavit of publication.

Larry Holt, Deputy Executive Director of the Housing Authority, said all property owners adjacent to the streets to be closed had either joined in the petition for the closing, or been notified by certified mail of Council's intention to close these streets. He said the East End Valley Street Neighborhood Association had joined in the recommendation to close the streets.

Mayor Bissette closed the public hearing at 4:42 p.m.

Upon motion of Vice-Mayor Frank, seconded by Councilman Price, Resolution No. 87-69 was unanimously adopted.

Complete text of Resolution No. 87-69 will be found in Resolution Book No. 16 at page 322 and 323.

RESOLUTION NO. 87-70 - RESOLUTION NAMING GEORGE WASHINGTON CARVER STREET AND EXTENDING SECTIONS OF OTHER STREETS IN THE EAST END/VALLEY STREET REDEVELOPMENT AREA

8. Consideration was given to a resolution naming George Washington Carver Street and extending sections of other streets in the East End/Valley Street redevelopment area.

Mayor Bissette said the East End/Valley Street Community Improvement Program has resulted in the closing of portions of Max Street, Knob Street and Grail Street and all of George Washington Carver Avenue, Haid Street and Gully Street. The configuration of the remaining streets has been altered in connection with the community improvement program. Plats have been recorded in the Office of the Register of Deeds setting forth the configuration of the newly developed streets, including a newly proposed George Washington Carver Street. It is desirable to name the streets as shown on the recorded plats.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety. He said any individual requesting a copy of the resolution would be furnished one at no cost.

Larry Holt, Deputy Executive Director of the Housing Authority, said the street names had been reviewed and approved by the East End/Valley Street Neighborhood Association.

Upon motion of Councilman Boland, seconded by Vice-Mayor Frank, Resolution No. 87-70 was unanimously adopted.

Complete text of Resolution No. 87-70 will be found in Resolution Book No. 16 at page 324.

PUBLIC HEARING - CLOSING UNNAMED ROAD BETWEEN PATTON AVENUE AND OLD HAYWOOD ROAD

RESOLUTION NO. 87-71 - RESOLUTION TO CLOSE AN UNNAMED ROAD BETWEEN PATTON AVENUE AND OLD HAYWOOD ROAD

9. Consideration was given to a resolution to close an unnamed road between Patton Avenue and Old Haywood Road.

Mayor Bissette said a petition has been filed by Mary R. Thrash, owner of property adjoining an unnamed roadway, between Patton Avenue and Old Haywood Road, asking that said unnamed road adjoining Lots 1-3/4 and 89 of Ward 5, Sheet 24, and Lots 72 and 73 of Ward 5, Sheet 29, of the Buncombe County Tax Maps be permanently closed to public use. The unnamed roadway is under the sole and exclusive authority and control of the City of Asheville and is not under the control and authority of the North Carolina Department of Transportation. The permanent closing of said unnamed roadway will not be either detrimental to or contrary to the public interest or the property rights of any individual and no individual owning property in the vicinity of the unnamed roadway will, by the permanent closing of the roadway be deprived of reasonable means of ingress and egress to his property.

Mayor Bissette opened the public hearing at 4:45 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing, and the affidavit of publication.

Larry Ward, Public Works Assistant Director, said the road to be closed is a dirt road which had never been paved or opened.

Mayor Bissette closed the public hearing at 4:46 p.m.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety. He said any individual requesting a copy of the resolution would be furnished one at no cost.

Upon motion of Councilman Tisdale, seconded by Councilman Price, Resolution No. 87-71 was unanimously adopted.

Complete text of Resoution No. 87-71 will be found in Resolution Book No. 16 at page 325.

PUBLIC HEARING - CLOSING OF AN UNNAMED ALLEY BETWEEN PICKWICK ROAD AND AN UNNAMED ALLEY IN REAR OF LOTS FRONTING PICKWICK ROAD

RESOLUTION NO. 87-72 - RESOLUTION TO CLOSE AN UNNAMED ALLEY BETWEEN PICKWICK ROAD AND AN UNNAMED ALLEY IN REAR OF LOTS FRONTING PICKWICK ROAD

10. A public hearing was held relative to a resolution to close an unnamed alley between Pickwick Road and an unnamed alley in rear of lots fronting Pickwick Road.

Mayor Bissette said a petition has been filed by David L. and Mary G. Evers, owners of property adjoining an unnamed alley between Pickwick Road and an unnamed alley in the rear of property fronting Pickwick Road, asking that said unnamed alley adjoining Lots 146 and 148 of Ward 8, Sheet 2, of the Buncombe County Tax Maps, also shown as Lots 11 and 12 of Plat Book 5, Page 79 of a plat recorded in the Register of Deeds Office of Buncombe County, be permanently closed to public use. The unnamed alley is under the sole and exclusive authority and control of the City of Asheville and not the North Carolina Department of Transportation. The permanent closing of said unnamed alley will not be either detrimental to or contrary to the public interest or the property rights of any individual and no individual owning property in the vicinity of the unnamed alley will be deprived of reasonable means of ingress and egress to his property.

Mayor Bissette opened the public hearing at 4:48 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing, and the affidavit of publication.

Larry Ward, Public Works Assistant Director, said this property has a very steep terrain and has never been opened as a road.

Mayor Bissette closed the public hearing at 4:50 p.m.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety. He said any individual requesting a copy of the resolution would be furnished one at no cost.

Upon motion of Vice-Mayor Frank, seconded by Councilman Michalove, Resolution No. 87-72 was unanimously adopted.

Complete text of Resolution No. 87-72 will be found in Resolution Book No. 16 at page 326.

ORDINANCE NO. 1628 - AN ORDINANCE AMENDING CHAPTER 13 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE TO AUTHORIZE THE CITY MANAGER OR HIS DESIGNEE TO EXTEND ANNUAL DATES FOR CURBSIDE PICKUP OF LEAVES

11. Consideration was given to an ordinance amending Chapter 13 of the Code of Ordinances of the City of Asheville to authorize the City Manager or his designee to extend annual dates for curbside pickup of leaves.

Mayor Bissette said this ordinance will amend Chapter 13 of the Code of Ordinances of the City of Asheville to authorize the City Manager or his designee to extend the period for collection of loose leaves on an annual basis as he may deem appropriate, giving consideration to prevailing weather conditions and other appropriate factors.

The City Manager said this amendment would modify the present ordinance which states leaves will be picked up from October 15th through December 15, and from March 1st through May 1st, to allow an extention of the period for collection of loose leaves at the discretion of the City Manager or his designee.

Councilman Price moved for the adoption of Ordinance No. 1628. This motion was seconded by Councilman Michalove.

On a roll call vote of 7-0, Ordinance No. 1628 passed on first reading.

Councilman Michalove moved to suspend the rules and proceed to the second reading of Ordinance No. 1628. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1628 passed on second reading.

Councilman Michalove moved to suspend the rules and proceed to the seconded reading of Ordinance No. 1628. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1628 passed on third and final reading.

Complete text of Ordinance No. 1628 will be found in Ordinance Book No. 11 at page 129.

ORDINANCE NO. 1627 - AN ORDINANCE AMENDING SECTION 28-81.2(b) OF ARTICLE IV, SPEED REGULATIONS OF CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

12. Consideration was given to the second reading of Ordinance No. 1627, ordinance amending Section 28-81.2(b) of Article IV, Speed Regulations, of Chapter 28 of the Code of Ordinances of the City of Asheville.

Mayor Bissette said this ordinance will lower the speed limit on Chiles Avenue from 35 m.p.h. to 20 m.p.h. This ordinance passed first reading at the April 14, 1987 meeting.

Mayor Bissette said this ordinance was previously read on first reading and would not be re-read in its entirety. He said any individual requesting a copy of the ordinance would be furnished one at no cost.

On a roll call vote of 7-0, Ordinance No. 1627 passed on second reading.

Councilman Michalove moved to suspend the rules and proceed to the third reading of Ordinance No. 1627. This motion was seconded by Councilman Price and carried unanimously.

Complete text of Ordinance No. 1627 will be found in Ordinance Book No. 11 at page 128.

Councilman Michalove suggested that a 30-day warning period be given to travelers on Chiles Avenue.

Councilman Tisdale requested that the Asheville Transit Authority be notified of the speed limit change.

RESOLUTION NO. 87-73 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE A CONTRACT AND ANY CHANGE ORDERS WITHIN THE BUDGETED AMOUNT WITH PAVING ENTERPRISES, INC. FOR THE PROJECT KNOWN AS STREET AND SIDEWALK IMPROVEMENTS CONTRACT I

13. Consideration was given to a resolution authorizing the City Manager to execute on behalf of the City of Asheville a contract and any change orders within the budgeted amount with Paving Enterprises, Inc. for the project known as Street and Sidewalk Improvements Contract I.

Mayor Bissette said on April 23, 1987, bids were received for work to be performed under Street and Sidewalk Improvements Contract 1. Three bids were received; Paving Enterprises, Inc. - $2,784,550.00; Taylor & Murphy - $3,062,003.00; APAC Carolina, Inc. - $3,347,695.00. Gary McGill of McGill Associates, P.A., Consulting Engineer hired for this project, has reviewed and evaluated the bids and recommends award to the low bidder, Paving Enterprises, Inc. in the amount of $2,784,550.00. Clark Brown, Director of Public Works, concurs in this recommendation. This resolution will authorize the City Manager to execute the contract and any change orders within the budgeted amount with Paving Enterprises, Inc. for the project known as Street and Sidewalk Improvements Contract 1. Funding for this project will be provided from the Public Improvement Bond Fund.

Upon motion of Vice-Mayor Frank, seconded by Councilman Boland, Resolution No. 87-73 was unanimously adopted.

Complete text of Resolution No. 87-73 will be found in Resolution Book No. 16 at page 327.

APPROVAL OF THE CONSENT AGENDA

NOTE: The following items are of a routine nature and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item schedule for approval on the consent agenda may be considered separately.

Resolution No. 87-74

A. Resolution authorizing the City Manager to execute an agreement between the City of Asheville and United States Cellular Corporation for construction of a new communications tower at Brown Mountain Reservoir.

HIGHLIGHTS: This resolution will authorize the City Manager to execute an agreement on behalf of the City of Asheville with United States Cellular Corporation providing for a lease of City-owned property located at Brown Mountain Reservoir in exchange for a radio communication tower to be constructed by United States Cellular Corporation at their expense.

FISCAL IMPACT: The cost of the tower is approximately $56,000.00.

Resolution Book No. 16 - page 328.

Resolution No. 87-75

B. Resolution authorizing the City Manager to execute an agreement between the City of Asheville and United States Cellular Corporation for construction of a new communications tower at White Fawn Reservoir.

HIGHLIGHTS: This resolution will authorize the City Manager to execute this agreement on behalf of the City of Asheville with United States Cellular Corporation providing for a lease of City-owned properted located at White Fawn Reservoir in exchange for a radio communication tower to be constructed by United States Cellular Corporation at their expense.

FISCAL IMPACT: The cost of the tower is approximately $76,500.00.

Resolution Book No. 16 - page 329.

Resolution No. 87-76

C. **Resolution authorizing the City Manager to execute an indenture conveying a sewer line easement to the Buncombe County Board of Commissioners for the Venable Industrial Site Sewer Connector.**

HIGHLIGHTS: The City Council of the City of Asheville desires to grant to the Buncombe County Board of Commissioners a sewer line easement for the "Venable Industrial Site Sewer Connector". This resolution will authorize the City Manager to execute said easement.

FISCAL IMPACT: None

Resolution Book No. 16 - page 330.

Resolution No. 87-77

D. **Consideration of a resolution authorizing the Mayor to execute on behalf of the City of Asheville an agreement and any amendments with CH2M Hill Southeast Inc. for engineering services for a sewer study to be completed by June 30, 1987.**

HIGHLIGHTS: The services of a consulting engineer are required to evaluate the condition of the City's sewers and the advantages and disadvantages of a transfer of operation and maintenance responsibility. This resolution will authorize the Mayor to execute an agreement and any amendments with CH2M Hill Southeast Inc. for a sewer study to be completed by June 30, 1987.

FISCAL IMPACT: $25,442.00 - funding available in Sewer Master Plan contingency funds.

Resolution Book No. 16 - page 331.

E. **Motion relative to bids received for herbicide for Public Works, Street Division and Parks, Recreation and Public Facilities Department.**

HIGHLIGHTS: Sealed bids were invited to furnish the estimated 1987 season requirements of 350 gallons of herbicide for the Public Works, Street Division and Parks, Recreation and Public Facilities Department's annual treatment of undesirable vegetation and right-of-way maintenance program. Seven bids were received. Purchases will be made on an as needed basis at the unit price of $72.45 per gallon. Clark Brown, Public Works Director and Ray Kisiah, Director of Parks, Recreation and Public Facilities Department have reviewed the bids and both concur to award this contract to the low bidder, Southern States, Inc., Asheville, North Carolina.

FISCAL IMPACT: $25,357.50 - Adequate funding in FY 1986-87 operating budget of the Public Works Department - Street Division. Parks, Recreation and Public Facilities Department - funds budgeted in FY 1986-87 Park Maintenance budget.

F. **Motion to schedule a public hearing relative to an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," as amended, rezoning property on Vanderbilt Road from R-3 Residential District to R-1 Residential District for May 19, 1987**

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held March 25, 1987, discussed the request of Asheville City Council that consideration be given to rezoning certain lots on Vanderbilt Road from R-3 Residential District to R-1 Residential District. After review and discussion, the Commission voted to recommend to City Council that Lots 58-1/2, 56-1/2, 56-1/4 and a portion of Lots 54 and 53-1/2, Sheet 4, Ward 7, be rezoned from R-3 Residential District to R-1 Residential District.

FISCAL IMPACT: None

G. **Motion to schedule a public hearing relative to the site plan of Sunset Pointe Condominiums to be located on Town Mountain Road for May 12, 1987.**

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held April 8, 1987 reviewed the site plan of Sunset Pointe Condominiums to be located on Town Mountain Road. The site plan was prepared by Freeman, Wells and Major, Architects, for W. R. Martin Corporation, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to the following: 1) compliance with Erosion Control Ordinance and Erosion Control Plan; 2) compliance with height ordinances, Ordinance 1514, restriction of structural heights in R-1 and R-2 zones, and Ordinance 1558, concerning protection of mountain ridges; 3) indicate adequate road access in accordance with Article 6, Group Developments, and contingent upon the driveway on the west side of the existing parking lot being taken from the area where there is a legal easement; 4) insuring that appropriate legal document be provided, prior to project going to City Council, that addresses restriction of development on rest site, restriction of tree cutting and color of buildings; 5) adequate fire protection; 6) compliance with parking requirements; 7) establishment of a Liaison Committee between developer and Grove Park-Sunset Homeowners Association; 8) compliance with Buffering Ordinance.

FISCAL IMPACT: None

H. **Motion to schedule a public hearing relative to a site plan of the proposed expansion of Autohaus of Asheville, Inc. at 2 Kenilworth Knoll for May 19, 1987.**

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held April 8, 1987, reviewed a site plan of the proposed expansion of Autohaus of Asheville, Inc., at 2 Kenilworth Knoll. The site plan was prepared by David Alton,

Architect, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to approve the project subject to compliance with the Erosion Control Ordinance.

FISCAL IMPACT: None

I. **Motion to schedule a public hearing relative to a site plan of Wall-Mart Discount City to be located on Hendersonville Road for May 19, 1987.**

HIGHLIGHTS: The site plan was prepared by Gray Engineering Consultants, Inc. for Wyatt Development Company, Inc., Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to approve the project subject to the following conditions: 1) erection of a 6' high chainlink fence beginning at Southwest corner and continuing around perimeter to intersection of Hendersonville Road at Northwest corner; 2) submission of sign package in accordance with Zoning Ordinance; 3) removal of access to Peachtree Road; 4) closing of Oak Street; and 5) compliance with Erosion Control Ordinance.

FISCAL IMPACT: None

Upon motion of Councilman Tisdale, seconded by Councilman Boland, the consent agenda was unanimously approved.

RESOLUTION NO. 87-78 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE CONTRACTS AND THE PURCHASING DIRECTOR TO MAKE PURCHASES UP TO THE STATUTORY LIMITS REQUIRED FOR FORMAL BIDDING UNDER CHAPTER 143 OF THE NORTH CAROLINA GENERAL STATUTES

15. Consideration was given to a resolution authorizing the City Manager to execute contracts and the Purchasing Director to make purchases up to the statutory limits required for formal bidding under Chapter 143 of the North Carolina General Statutes.

Mayor Bissette said the North Carolina General Statutes permit the awarding of bids for purchases and other activities up to a certain statutory amount before a formal bidding process is required. He said this resolution will authorize the City Manager to execute the contracts and the Purchasing Director to make purchases up to those statutory limits in order to confirm the actions of these individuals and in executing agreements and making purchases.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 87-78 was unanimously adopted.

Complete text of Resolution No. 87-78 will be found in Resolution Book No. 16 at page 332.

CLAIMS - HEWITT PRESS (SEWER) - VIRGINIA CANTOR (STREETS) - MICHAEL HARRIS (POLICE)

16. The City Manager presented claims received from Hewitt Press, Virginia Cantor, and Michael Harris.

COMMENTS BY R. L. BAILEY - STORM DRAINAGE ON CHEROKEE ROAD

17. Mr. R. L. Bailey spoke to members of Council relative to a major storm drainage problem he is having on Cherokee Road.

After discussion, Mayor Bissette instructed the City Manager to look into the concerns of Mr. R. L. Bailey.

COMMENTS BY HAROLD BLANKENSHIP - HARNETT STREET - DRAINAGE PROBLEMS

18. Harold Blankenship, of 51 Harnett Street, spoke to members of Council relative to a drainage problem which he had spoke to Council and City staff about previously, at the corner of his property beside the new Vance School. He said the catch basin at the corner of his property and Vance Elementary School, to carry the water from the ball field is not adequate.

Mayor Bissette instructed the City Manager to look into the concerns of Harold Blankenship at 51 Harnett Street.

RALPH BISHOP - LOTTERY SALES

19. Ralph Bishop again spoke to members of Council relative to lottery sales in the City of Asheville.

ADJOURNMENT

Mayor Bissette adjourned the meeting at 5:10 p.m.

Mayor

City Clerk

Tuesday - May 5, 1987 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter R. Boland; George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Norma Price and Councilman Kenneth Michalove.

INVOCATION

The invocation was given by Mayor Louis Bissette.

APPROVAL OF THE MINUTES - APRIL 28, 1987 MEETING

Consideration was given to the approval of the minutes of the April 28, 1987, meeting.

Mayor Bissette announced the approval of the minutes as submitted.

I. PROCLAMATION

A. LAW ENFORCEMENT OFFICERS WEEK" - MAY 10 - 16 AND MAY 15 AS: PEACE OFFICERS MEMORIAL DAY"

Mayor Bissette read the proclamation and presented a copy to Chief Fred Hensley.

B. "SMALL BUSINESS WEEK" - MAY 10 - 16, 1987

Mayor Bissette read the proclamation and presented the copy to Bob Kendrick, Manager of Small Business Development, Chamber of Commerce.

C. "NATIONAL BARRIER AWARENESS DAY" - MAY 7, 1987

Mayor Bissette read the proclamation and presented a copy to Herbert Reith, representative from the Mayor's Committee on Employment of the Handicapped.

D. "DRINKING WATER WEEK" - MAY 4 - 8, 1987

Mayor Bissette read the proclamation and presented a copy to Harold Huff from Water & Sewer Services Department.

II. PUBLIC HEARINGS

None scheduled.

III. OLD BUSINESS

A. RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A MUNICIPAL AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR THE IMPROVEMENT OF U. S. 25 SOUTH FROM I-40 TO THE BLUE RIDGE PARKWAY.

Mayor Bissette said action relative to this resolution would be postponed until a later date.

IV. NEW BUSINESS

RESOLUTION NO. 87-79

A. RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE A MUNICIPAL AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR PROJECT 8.1909316(I-40AJ)

This resolution will authorize the Mayor to execute a municipal agreement with the NCDOT for improvements to the interchange of I-40 and US 25A. NCDOT agrees to acquire right-of-way and construct the project.

Upon motion of Councilman Tisdale, seconded by Councilman Boland, Resolution No. 87-79 was unanimously adopted.

Complete text of Resolution No. 87-79 will be found in Resolution Book No. 16 at Page 333.

V. CONSENT AGENDA

None Scheduled

VI. OTHER BUSINESS

A. RESOLUTION NO. 87-80 - RESOLUTION OF INTENT TO CLOSE CERTAIN ALLEYS AND PORTIONS OF AN ALLEY BOUNDED ON THE NORTH BY WALNUT STREET, ON THE EAST BY RANKIN AVENUE, ON THE SOUTH BY COLLEGE STREET, AND ON THE WEST BY HAYWOOD STREET

Upon motion of Councilman Tisdale, seconded by Vice-Mayor Frank, Resolution No. 87-80 was unanimously adopted.

Complete text of Resolution No. 87-80 will be found in Resolution Book No. 16 at Page 334, 335 and 336.

B. PHILLIP WERTHEIMER OF 182 BROOKWOOD ROAD

Mr. Wertheimer spoke to members of Council relative to the paving of the dirt portion of Elk Mountain Scenic Highway. He said the City should either blacktop this portion of Elk Mountain Scenic Highway or reimburse him for the expenses he has incurred in controlling the dust problem.

After discussion, Mayor Bissette instructed the City Manager to look into Mr. Wertheimer's request and report back to members of Council.

C. RALPH BISHOP - LOTTERY SALES

Ralph Bishop again spoke to members of Council relative to the lottery sales in the City of Asheville.

CLAIMS - JEANNE O'CONNOR (STREETS), GEORGE JENKINS (WATER), NANCY JARRETT (WATER), RICHARD BUSH (SANITATION), DWIGHT BARNHILL (WATER)

The City Manager presented claims received from Jeanne O'Connor (Streets), George Jenkins (Water), Nancy Jarrett (Water), Richard Bush (Sanitation), and Dwight Barnhill (Water).

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

ADJOURNMENT

Mayor Bissette adjourned the meeting at 4:45 p.m.

MAYOR

CITY CLERK

Tuesday - May 12, 1987 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Norma Price, Kenneth Michalove, Walter R. Boland; George M. Tisdale; Corporation Counsel William F. Slawter; Associate City Manager/City Clerk William F. Wolcott, Jr., and Deputy City Clerk Carol Hensley.

Absent: City Manager Douglas O. Bean.

INVOCATION

The invocation was given by Councilman Walter Boland.

APPROVAL OF THE MINUTES - MAY 5, 1987 MEETING

Consideration was given to the approval of the minutes of the May 5, 1987, meeting.

Mayor Bissette announced the approval of the minutes as submitted.

I. PROCLAMATIONS

A. RESOLUTION NO. 87-81 - RESOLUTION IN MEMORIUM OF FRANK COXE

Mayor Bissette read a resolution in memorium of Frank Coxe, former Vice President of First Union National Bank and civic leader, who recently passed away.

Upon motion of Councilman Tisdale, seconded by Councilman Boland, Resolution No. 87-81 was unanimously adopted.

Complete text of Resolution No. 87-81 will be found in Resolution Book No. 16 at page 33[illegible].

B. RESOLUTION NO. 87-82 - RESOLUTION COMMENDING ASHEVILLE JUNIOR HIGH SCHOOL ODYSSEY OF THE MIND TEAM

Mayor Bissette said Asheville Junior High School had a team to place first in both the Western Regional and the State levels of Odyssey of the Mind competition. He said they will now represent Asheville City Schools and the State of North Carolina in the World Odyssey of the Mind finals.

Mayor Bissette recognized Shelly Smith, sponsor for the Asheville Junior High School Odyssey of the Mind Team, and the team members.

Upon motion of Vice Mayor Frank, seconded by Councilman Price, Resolution No. 87-82 was unanimously adopted.

Complete text of Resolution No. 87-82 will be found in Resolution Book No. 16 at 33[illegible].

C. **RESOLUTION NO. 87-~~84~~ 83 - RESOLUTION COMMENDING ASHEVILLE JUNIOR HIGH SCHOOL HISTORY DAY TEAM.**

Mayor Bissette said Asheville Junior High students participated in all categories of the History Day in North Carolina and won first and second places in the group projects Junior Division.

Mayor Bissette recognized Mrs. Helen Edington, sponsor for the Asheville Junior High School History Day Team, and the team members.

Upon motion of Councilman Michalove, seconded by Councilman Boland, Resolution No. 87-~~84~~ 83 was unanimously adopted.

Complete text of Resolution No. 87-~~84~~ 83 will be found in Resolution Book No. 16 at page ~~338~~ 340.

II. PUBLIC HEARINGS

A. **PUBLIC HEARING - SITE PLAN OF SUNSET POINTE CONDOMINIUMS TO BE LOCATED ON TOWN MOUNTAIN ROAD.**

Mayor Bissette said the Asheville Planning and Zoning Commission, at a meeting held April 8, 1987, reviewed the site plan of Sunset Pointe Condominiums to be located on Town Mountain Road. The site plan was prepared by Freeman, Wells and Major, Architects, for W. R. Martin Corporation, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to the following: 1) compliance with the Erosion Control Ordinance and Erosion Control Plan; 2) compliance with height ordinances, Ordinance No. 1514, Restriction of Structural Heights in R1 and R2 zones, and Ordinance No. 1558 concerning protection of mountain ridges; 3) indicate adequate road access in accordance with Article 6, Group Developments, and contingent upon the driveway on the west side of the existing parking lot being taken from the area where there is a legal easement; 4) insuring that appropriate legal document be provided, prior to the project going to City Council, that addresses restriction of development on rest of site, restriction of tree cutting and color of buildings; 5) adequate fire protection; 6) compliance with parking requirement; 7) establishment of a liaison committee between developer and Grove Park - Sunset Homeowners Association; 8) compliance with buffering ordinance.

Mayor Bissette opened the public hearing at 4:15 p.m.

The Deputy City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Planning and Zoning Commission reviewed and approved the site plan for the Sunset Pointe Condominiums with a number of contingencies. He said the Erosion Control Plan was submitted and approved by the City Engineering Department. He said based on information provided, the developers have complied with height

ordinances, Ordinance No. 1514, restriction of structural heights in R1 and R2 zones and Ordinance No. 1558 concerning protection of mountain ridges. He said as shown on the plans, the entrance will be on the west side of the existing parking lot. He said a Development Rights Easement has been presented to the Corporate Counsel which addresses restriction of development on the rest of the site, restriction of tree cutting and color of the buildings, and would be binding on the existing owner, as well as future owners of the property. He said the fire protection plan has been presented and approved by the Asheville Fire Department. He said the parking requirement is in compliance, and the developers have agreed to the establishment of a liaison committee between the developer and the Grove Park - Sunset Homeowners Association. He said the developers also agreed to, and have shown on the plans, a 20' buffer from Overlook Castle, which would be planted or left natural.

Albert Sneed, Attorney for the developer, outlined the history of the proposed project, stating that when the developer first purchased the property, the zoning allowed ten units per acre or 220 units total; however, the developer had first submitted plans consisting of 196 units. He said in the meantime, the City Council changed the law limiting heights on buildings and remanded the project back to the Planning and Zoning Commission. He said the developer reworked the plans and is proposing 48 condominium units. He said the City also down-zoned the property to allow for only six units per acre instead of ten units per acre. He said the project was turned down by City Council, Council then passed a "Hillside Ordinance", again down-zoning the property, and the developer has again submitted another plan for Council's consideration which is in total compliance with all codes and ordinances of the City of Asheville.

Mr. Sneed said the developer will be furnishing 50,000 gallons of water on-site at all times for fire protection, as recommended by the Asheville Fire Department. He said 14 acreas of the land have been dedicated, by an easement, for no further development whatsoever. He said the developer has also agreed to restrictions on the color of the buildings and tree cuttings. He said the North Carolina Department of Transportation has approved a driveway entrance to the proposed project. He said water and sewer services are adequate to service the proposed units. He said the Erosion Control Plan submitted to, and approved by, the City Engineering Department meets and exceeds all requirements of the City's Erosion Control Ordinance. He said the residents had expressed concern relative to additional water runoff which they felt would be created by this project. He said with the Erosion Control Plan as outlined, the current water runoff problem would be somewhat corrected after the project is complete.

Alan Freeman, Architect for the project, presented a three dimensional model of the proposed project.

Mr. Sneed indicated that the developer has made a number of concessions to satisfy the concerns of residents in the area, including the removal of one story of the buildings. He said the buildings will not be higher than a two-story house. He said a detailed landscaping plan would be submitted and a new sewer line would be installed at the developer's expense extending 450' off their property. He said the Erosion Control Ordinance requires a capacity for a 10-year storm and their plan provides for the capacity of a 25-year storm.

Bob Dungan, Attorney for the Sunset Ridge Homeowners Association, expressed concerns relative to the proposed road access. He said they would recommend that, if approved, the road access be on the east side of the property rather than the west side. He said the potential problems with having the road access on the west would be erosion control, a dangerous "S" curve, and visability problems. He said almost no tree cutting would be required if the developer uses the east side for the road access. He said the residents of Sunset Ridge Homeowners Association do not want the developers to use their pool for the 50,000 gallon reservoir for fire protection purposes.

George Saenger, Attorney for the Grove Park - Sunset Mountain Association, spoke in opposition to the project stating that the project was originally denied by members of Council in June, 1986, because the project was improper. He said they also felt the fire protection is not adequate for the project, and there would be many problems concerning erosion control in the area.

Max Haner, Secretary for the Grove Park - Sunset Mountain Association expressed concerns relative to the project citing erosion control and fire protection problems.

Kenneth Pankow, Engineer hired by the Grove Park - Sunset Mountain Association to review the project, said he had reviewed the erosion control plan for the proposed project. He said he felt the engineering plans are inadequate and in comparing the group development check-off list, there are many inadequacies. He said the trees on the model presented are out of scale. He said one of the major problems would be the storm water runoff and erosion control. He said the developers failed to take into consideration three old storm water control structures presently on the property of which two are filled in and cannot be used. He said when the developers started clear cutting at the Tiara Apartments in 1984, without a permit, the water runoff in the area tremendously increased. He said he has requested the revocation of the Provisional Grading Permit due to several problems including very steep slopes, and retention bases that will have too great of a slope which would cause additional problems with runoff. He also commented that the plan shows dumpsters and buildings within 12' of the Overlook Castle property of which the developer has indicated a 20' buffer. He said in his opinion, the storing of the 50,000 gallons of water for fire protection on-site is not adequate. He said the water would only last approximately 17 minutes, and it would take two to four hours to fight a fire in such a complex. He also indicated that there is an existing sanitary sewer line on the property, probably serving the Tiara Apartments, that the developer shows construction over.

Upon inquiry of Councilman Michalove, Verl Emrick, Director of Planning, said all three questions raised by Mr. Pankow, being the sanitary sewer, erosion control, and fire protection concerns have been reviewed by the Planning Department, the Fire Department, and the Water & Sewer Services and Engineering Department.

Albert Sneed, responding to concerns expressed by the individuals, said the developer has not and will not mislead anyone regarding the project. He said the developers attempted to meet with the Grove Park - Sunset Mountain Association; however, the residents would not listen. He said the developers would be bound by the 20' buffer zone from the Overlook Castle and the height limitations. He said the complex would comply with all laws and ordinances of the City of Asheville. He said the Erosion Control Plan engineered to a 25-year storm would improve current problems with runoff. He said all plans were properly presented and in order.

Upon inquiry of Councilman Price, Mr. Freeman, Architect, and Mr. Sneed said the dumpster shown on the plan within the 20' buffer zone would be moved and the buffer zone would be completely clear. They also indicated that the developer would be willing to work with the residents in any way possible to eliminate problems.

George Jenson, Engineer for the proposed project, said he had reviewed all concerns expressed by Mr. Pankow and the residents. He said he used the "rationale formula" in designing the Erosion Control Plan. He said the plan is designed to control silt and water runoff in the area. He said the main areas of the property to be disturbed would be the parking areas, the entrance, and the retention areas. He said he discussed all points outlined by Mr. Penkow with Dale Pennell in the Engineering Department. He said, in his opinion, there would be no problems with the proposed plans, and the water runoff will not be at a greater velocity than currently exists.

Chief John Rukavina, with the Asheville Fire Department, said after review of the plans, the Fire Prevention Bureau has recommended that 50,000 gallons of water be stored on-site without obstruction or interference to meet appropriate standards and appropriate level of protection for the project. He said the storage of the 50,000 gallons would be used for the initial fire attack flow, giving an opportunity to mobilize additional sources. He said the building would be constructed according to all building code requirements, and considering all factors, the conplex would be relatively safe for fire protection. He also indicated that the road access proposed would be adequate for fire apparatus.

Councilman Michalove requested that he be excused from the meeting due to an out-of-town meeting. Vice-Mayor Frank moved to excuse Councilman Michalove from the meeting. This motion was seconded by Councilman Price and carried unanimously.

Harold Huff, Director of Water, Sewer and Engineering Department, said the water plans for the proposed project had been approved by the Asheville Buncombe Water Authority on April 18, 1987. He said his department has not received plans for sewer facilities but felt that after reviewing the plans, they would be adequate. He said a soil erosion permit was issued on April 8, 1987, after an intensive review of the Erosion Control Plan. He said the City's Erosion Control Ordinance is a model ordinance within the State and is very stringent. He said the Erosion Control Plan submitted by the developer is probably the most comprehensive plan submitted to the Engineering Department within two

years. Mr. Huff said the rationale method used by the engineer for the project is the most widely and accepted used method in designing an erosion control plan.

Mr. Jensen, Engineer for the project, said he felt that major inadequacies of erosion control in the area is due to the State not providing erosion control measures.

Gary Hobbs, 106 Old Toll Road, spoke in opposition to the proposed project stating that major runoff problems occurred after the developer cleared land at Sunset Ridge. He presented photographs showing damages that have occurred at his residence since the developer had cleared land on Sunset Ridge.

Harvey Haywood, 12 Sunset Summit, also expressed concern relative to the proposed plans for erosion control for the project.

Peter Gentling, 241 Old Toll Road, spoke in opposition to the project, citing increased water runoff problems that would be created by the development of the project.

Cecil Patterson, Sunset Ridge Condominiums, spoke in opposition to the project.

Francis Manley, 310 Town Mountain Road, spoke in opposition to the project also stating that Phil Green with the Institute of Government had reviewed the plans for the project and indicated the project should not be approved.

Loran and Kela Wells, of 710 Town Mountain Road, owners of "Overlook Castle", spoke in opposition to the project stating that the project is not in harmony with the district.

Ray and Lola Myers, 4 Crowningway Drive, spoke in opposition to the project.

Barbara Pate, 30 Sunset Summit, spoke in opposition to the project stating that the complex would create additional problems for residents in the area as far as storm drainage is concerned.

John Lehman, 410 Sunset Ridge, requested that if the project is approved that the entrance to the project be on the east side of the building. He also felt there was a lack of communication between the residents in the area and the developer of the proposed project.

Bonnie Scully, 17 Bluebrier Road, said she felt the proposed project would cause a large amount of water damage to her property. She said she felt Council should have some accountability for the damages.

George Saenger, Attorney for the Grove Park - Sunset Mountain Association, again appealed to members of Council not to approve the project. He said the project, in the form presented, is no different than the project Council denied over a year ago. He also stated that the developer's corporation charter is in a state of suspension.

Albert Sneed reiterated that the residences in the area is not going to get more water run-off from this project. He said in his opinion, this complex is the best use for the area. He said a developer could put in single-family residences which would call for more extensive road work and land disturbance. He said the developer is not going to use the Sunset Ridge Condominiums swimming pool for the 50,000 gallon water storage. He asked for an alternate approval for the access road to be in the rear of the building which would require another erosion control plan be submitted. He said the developers would like the alternate approval to put the access road on the east side of the property but did not want to be made to put the road on the east side. He said the only reason the developer's corporate charter may be in a state of suspension is due to the filing of a franchise tax. He said there is no evidence of fraud relative to the corporation. He said the project is being constructed by a partnership with W. R. Martin Corporation and the U. S. Shelter Corporation of Greenville, South Carolina.

Upon inquiry of Councilman Price, Mr. Sneed said the corporation would own and pay taxes on the undeveloped 17 acres.

Mayor Bissette closed the public hearing at 7:59 p.m.

Upon motion of Councilman Boland, seconded by Councilman Bratton, Council adjourned to executive session to discuss a legal matter concerning Sunset Pointe Condominiums site plan.

The Council went back into open session at 8:52 p.m.

Upon inquiry of Councilman Bratton, W. R. Martin said there is no other reason that his corporation charter is in a state of suspension other than the filing of a franchise tax.

After a good deal of thought and lengthy deliberations, Councilman Boland moved to approve the site plan of Sunset Pointe Condominiums located on Town Mountain Road contingent upon the following conditions being satisfied prior to the issuance of a zoning permit: 1) entrance road to be located along the roadbed on east side of site; 2) compliance with erosion control ordinance and erosion control plan with prior approval of amended plan; 3) compliance with height ordinances, Ordinance No. 1514, Restriction of Structural Heights in R-1 and R-2 Zones, and Ordinance No. 1558 concerning protection of mountain ridges; 4) ensuring that appropriate legal documents be provided that addresses restriction of development on the rest of site, restriction of tree cutting and trimming, color of buildings and landscape plan (to be approved by City staff); 5) adequate fire protection as approved by the Asheville Fire Department; 6) compliance with parking requirements; 7) establishment of a liaison committee between developer and Grove Park-Sunset Homeowners Association and Sunset Ridge Association; 8) compliance with buffering ordinance with nothing permitted in buffered area on southern property line; 9) prior approval of water and sewer line plans with the replacement of the existing 4" line; 10) tree plantings of 6' to 8' trees on the west side as shown on the plans. This motion was seconded by Councilman Tisdale and carried unanimously, with Councilman Michalove being excused.

Mayor Bissette said members of Council pledge a thorough monitoring system of this site plan and in the making of immediate storm water improvements in the area. He said the City staff is in the process of completing a storm water master plan and improvements should begin in the near future.

B. PUBLIC HEARING - TO CLOSE UNNAMED ALLEY BETWEEN RIDGEWAY AND TOXAWAY STREET

RESOLUTION NO. 87-84 - RESOLUTION TO CLOSE UNNAMED ALLEY BETWEEN RIDGEWAY AVENUE AND TOXAWAY STREET IN THE CITY OF ASHEVILLE, NORTH CAROLINA

Mayor Bissette said a petiton has been filed by Paul A. Bradish and Marion Kuykendall requesting that an unnamed alley between Ridgeway Avenue and Toxaway Street be permanently closed to public use. This alley is under the sole and exclusive authority and control of the City of Asheville and is not under the authority of the NCDOT. Permanent closing of this unnamed alley would not be either detrimental to or contrary to the public interest or to the property rights of any individual and no individual owning property in the vicinity of this alley would be deprived of ingress and egress to his property.

Mayor Bissette opened the public hearing at 9:01 p.m.

The Deputy City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Mayor Bissette noted that members of Council were briefed relative to the closing during the pre-Council work session.

There being no further comments, the Mayor closed the public hearing at 9:02 p.m.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety. He said any individual requesting a copy of the resolution would be furnished one at no cost.

Upon motion of Councilman Price, seconded by Councilman Tisdale, Resolution No. 87-84 was unanimously adopted.

Complete text of Resolution No. 87-84 will be found in Resolution Book No. 16 at page 340.

III. OLD BUSINESS

None scheduled.

IV. NEW BUSINESS

A. APPROVAL OF THE BIDS FOR ONE EACH ASPHALT PAVER, ASPHALT ROLLER, AND STREET FLUSHER

Mayor Bissette said staff recommends of acceptance of the following low bids for one self-propelled asphalt paver, one self-propelled vibratory roller and one street flusher for the Public Works Department, Street Division. Six (6) bids were received.

Self Propelled, Rubber Tired Asphalt Paver - Arrow Equipment, Inc., Greensboro, North Carolina, for a "Blow-Knox" in the amount of $101,445.00.

Self-Propelled, Tandum Vibratory Roller - Recommend to re-bid once specifications are revised to meet the new "Standard Specifications for Roads and Structures" as published by the North Carolina Department of Transportation.

Street Flusher - A. E. Finley and Associates, Inc., Charlotte, North Carolina, for a 1987 "Ford" cab and chassis with a Hydrostatic flusher body in the amount of $52,769.00.

Councilman Price moved to approve the bids for an asphalt paver and street flusher as recommended by the Public Works Department. This motion was seconded by Councilman Boland and carried unanimously.

V. CONSENT AGENDA

A. RESOLUTION NO. 87-85 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN AGREEMENT WITH POINSETT SELF-INSURANCE SALES AND SERVICE, A SUBSIDIARY OF POINSETT FEDERAL SAVINGS AND LOAN ASSOCIATION FOR THE PURPOSE OF PROVIDING LOSS PREVENTION SERVICES TO THE CITY OF ASHEVILLE UNDER ITS SELF-INSURANCE PROGRAM OF WORKERS' COMPENSATION AS REQUIRED BY THE REINSURER

Mayor Bissette said the City of Asheville is a self-insured municipality for purposes of Workers' Compensation and in order to secure reinsurance for specific and aggregate excess liabilities, the various reinsurance markets require the services of an outside loss prevention consultant. Poinsett Self-Insurance Sales and Service has provided such services in the past in a cost effective and efficient manner, and has provided the City with a responsible quotation for the services for the contract period March 27, 1987 through March 26, 1988. This resolution will authorize the execution of such an agreement.

Resolution Book 16 at page 342.

B. RESOLUTION NO. 87-86 - RESOLUTION APPOINTING MRS. SHIRLEY A. MCCULLOUGH AS A MEMBER OF THE ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION

Mayor Bissette said the term of Mrs. Shirley A. McCullough as a member of the Asheville-Buncombe Historic Resources Commission will expire on July 1, 1987. This resolution will reappoint Mrs. McCullough to the commission for a term of three years, term expiring July 1, 1990, or until her successor has been duly appointed and qualified.

Resolution Book 16 at page 343.

Upon motion of Councilman Price, seconded by Vice-Mayor Frank, the Consent Agenda was unanimously approved.

VI. OTHER BUSINESS

A. MOTION - SCHEDULING PUBLIC HEARING - COMMUNITY DEVELOPMENT NEEDS AND FINAL STATEMENT OF CDBG OBJECTIVES FOR 1987-88 - MAY 26, 1987

Councilman Price moved to schedule a public hearing relative to the community development needs and final statement of CDBG objectives for 1987-88 for May 26, 1987. This motion was seconded by Councilman Boland and carried unanimously.

B. MOTION - MAYOR AUTHORIZED TO EXECUTE DOCUMENTS ON BEHALF OF THE CITY OF ASHEVILLE EXCEPT EASEMENTS FROM ADJOINING PROPERTY OWNERS IN CONNECTION WITH THE WALL STREET PROJECT

Councilman Price moved that the Mayor be authorized to execute documents on behalf of the City of Asheville accepting easements from adjoining property owners in connection with the Wall Street Project. This motion was seconded by Vice-Mayor Frank and carried unanimously.

C. CLAIMS - CARMEL SUTTLES (POLICE)

The Assistant City Manager presented a claim received from Carmel Suttles.

Mayor Bissette referred the claim to the Corporation Counsel for investigation and recommendation.

ADJOURNMENT

Upon motion of Councilman Boland, seconded by Councilman Price, the meeting adjourned at 9:15 p.m.

Mayor

William F. Holcomb
City Clerk

Tuesday - May 19, 1987 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter R. Boland; Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Deputy City Clerk Carol Hensley.

Absent: City Clerk William F. Wolcott and Councilman Norma Price (Councilman Price, representing the City of Asheville, is attending National Association of Regional Councils Meeting

INVOCATION

The invocation was given by Councilman George Tisdale. He requested that the audience stand for the Pledge of Allegiance to the Flag.

APPROVAL OF THE MINUTES - May 12, 1987 MEETING

Consideration was given to the approval of the minutes of the May 12, 1987, meeting.

Mayor Bissette announced the approval of the minutes as submitted.

I. PROCLAMATIONS

A. RESOLUTION NO. 87-87 - RESOLUTION OF APPRECIATION TO NEIGHBORING FIRE DEPARTMENTS, RESCUE/SUPPORT AGENCIES AND AREA BUSINESSES

Mayor Bissette read the resolution stating that the Asheville Fire Department was recently confronted with a major fire on April 29, 1987, at Asheville Terrace Apartments. He said many neighboring fire departments, rescue/support agencies, and area businesses rendered their services.

Mayor Bissette recognized those individuals in attendance at the meeting who helped with the fire and expressed the City of Asheville's appreciation for their assistance and dedication to the City of Asheville.

Upon motion of Councilman Boland, seconded by Councilman Michalove, Resolution 87-87 was unanimously adopted.

Complete text of Resolution No. 87-87 will be found in Resolution Book No. 16 at Page 344.

II. PUBLIC HEARINGS

A. REZONING PROPERTY ON VANDERBILT ROAD FROM R-3 RESIDENTIAL DISTRICT TO R-1 RESIDENTIAL DISTRICT

ORDINANCE NO. 1629 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED, PROPERTY ON VANDERBILT ROAD.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held March 25, 1987, discussed the request of Asheville City Council that consideration be given to rezoning certain lots on Vanderbilt Road from R-3 Residential District to R-1 Residential District. After review and discussion, the Commission voted to recommend to City Council that Lots 58-1/2, 56-1/2, 56-1/4 and a portion of Lots 54 and 53-1/2, Sheet 4, Ward 7, be rezoned from R-3 Residential District to R-1 Residential District.

Mayor Bissette opened the public hearing at 4:15 p.m.

The Deputy City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Julia Cogburn, with the Planning Department, said the properties recommended for rezoning are located on Vanderbilt Road on the perimeter of the Biltmore Forest town limits. She said two of the properties extend to Hendersonville Road; however, the Commercial Highway zone facing Hendersonville Road would not be rezoned. The portion to be rezoned includes vacant property and three single-family dwellings. She said the properties conform to R-1 zoning regulations.

Bob Musselwhite, Town Manager for Biltmore Forest said the property proposed to be rezoned is on the perimeter of the Biltmore Forest town limits, and three single-family dwellings exist on the properties. He said property owners previously felt they were a part of Biltmore Forest, and that the R-1 zoning would protect their property from any other use other than single-family dwellings. He requested favorable consideration of the rezoning.

Upon inquiry of Councilman Tisdale, Mr. Musselwhite said on a short-term basis, Biltmore Forest and the residents feel the rezoning would protect their properties; however, on a long-term basis, the Town of Biltmore Forest and the residents would like the boundaries adjusted to allow the properties to be included in the Biltmore Forest town limits. However, in order to change the boundary limits, he said, the legislature would have to take such action.

Councilman Tisdale said since the Town of Biltmore Forest and the residents are still interested in changing the boundaries to allow these properties to be included in the Biltmore Forest town limits, he felt the request was not unreasonable and should be investigated.

Mayor Bissette closed the public hearing at 4:20 p.m.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety. He said any individual requesting a copy of the ordinance would be furnished one at no cost.

Councilman Michalove noted that, as a matter of record, that the boundary adjustments for Biltmore Forest town limits is not a matter for consideration at today's Council meeting, even though Mr. Musselwhite suggested that the boundaries be changed on a long-term basis.

On a roll call vote of 6-0, Ordinance No. 1629 passed on first reading.

B. SITE PLAN OF WALL-MART DISCOUNT CITY TO BE LOCATED ON HENDERSONVILLE ROAD.

Mayor Bissette said the site plan was prepared by Gray Engineering Consultants, Inc. for Wyatt Development Company, Inc., Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to approve the project subject to the following conditions: 1) erection of a 6' high chainlink fence beginning at Southwest corner and continuing around perimeter to intersection of Hendersonville Road at Northwest corner; 2) submission of sign package in accordance with Zoning Ordinance; 3) removal of access to Peachtree Road; 4) closing of Oak Street; and 5) compliance with Erosion Control Ordinance.

Mayor Bissette opened the public hearing at 4:24 p.m.

The Deputy City Clerk presented the notice to the public, setting the time and date of the public hearing and the affidavit of publication.

Al Kopf, with the Planning Department said a Wall-Mart Discount City Shopping Center is proposed to be located on Hendersonville Road on property formally occupied by Nettlewood Nurseries. He said the property consist of 23 acres, and is zoned Commercial Highway District. He said the developer proposes 175,000 square feet of retail space with a major retail store, as well as 16 other retail stores. He said parking exceeds Zoning Ordinance requirements. He said access to the project would be off Hendersonville Road, and this has been approved by the North Carolina Department of Transportation. He said the Planning and Zoning Commission had recommended approval of the project contingent on the erection of a six-foot fence beginning at the Southwest corner and continuing around the perimeter to the intersection of Hendersonville Road at the Northwest corner. He said, as shown on the plans, the developer is proposing the removal of the access to Peachtree Road and the closing of Oak Street. He said the developer had submitted and received approval for their erosion control plan.

Jim Price, with Wyatt Development Company, spoke in support of the project. He also requested that Council allow the developer to stop with the chainlink fence at the Oak Street location. He said they do not wish to have the complex look like a detention center, and people living in the rear of the development may want to walk to the shopping center. He said the developer is in conformance with the Group Development regulations, and a 20 foot buffer is planned around the property. He said he felt the fence is an overkill of protection. He said a plan has been formulated with a tree line drive with trees also planned for the interior of the parking lot. He said it is the developer's desire to have the complex both functional and appealing.

Eugenia Gibson of 1640 Hendersonville Road said her property adjoins the proposed complex, and she requested that a buffer and fence be required around the project to control vandalizm and trash.

Mayor Bissette closed the public hearing at 4:37 p.m.

Vice-Mayor Frank moved for the approval of the site plan for Wall-mart Discount City as recommended by the Planning and Zoning Commission including the six-foot high chainlink fence beginning at the Southwest corner and continuing around the perimeter to the intersection of Hendersonville Road at the Northwest corner and to include tree plantings within the interior of the parking area. This motion was seconded by Councilman Boland and carried unanimously.

C. SITE PLAN OF THE PROPOSED EXTENSION OF AUTOHAUS OF ASHEVILLE, INC. AT 2 KENILWORTH KNOLL.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held April 8, 1987, reviewed the site plan of the proposed expansion of Autohaus of Asheville, Inc. at 2 Kenilworth Knoll. The site plan was prepared by David Aiton, Architect, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to approve the project subject to compliance with the Erosion Control Ordinance.

Mayor Bissette opened the public hearing at 4:49 p.m.

The Deputy City Clerk presented the notice to the public, setting the time and date for the public hearing, and the affidavit of publication.

Al Kopf, with the Planning Department, said the proposed extension is an addition to the existing buildings for Autohaus of Asheville. He said the project will consist of 6,000 sq. ft. to be used by another dealership.

David Aiton, Architect for the project, spoke in support of the proposed expansion. He said the only reason the site plan had to be presented to Planning and Zoning Commission and to City Council is that it is over the 5,000 sq. ft. limit.

Mayor Bissette closed the public hearing at 4:51 p.m.

Vice-Mayor Frank moved for the approval of the site plan of the proposed expansion of Autohaus of Asheville, Inc. at 2 Kenilworth Knoll as recommended by the Planning and Zoning Commission. This motion was seconded by Councilman Boland and carried unanimously.

III. OLD BUSINESS

A. RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A MUNICIPAL AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR THE IMPROVEMENT OF U.S. 25 SOUTH FROM I-40 TO THE BLUE RIDGE PARKWAY

Mayor Bissette said the North Carolina Department of Transportation has prepared and adopted plans to make certain street and highway improvements with the City under Project No. 8.1900801. These plans consist of the improvement of U.S. 25 south from I-40 to the Blue Ridge Parkway in Asheville. The Department of Transportation and the City propose to enter into an agreement in which the City agrees: 1) to affect the necessary adjustment of any utilities under franchise without cost to the Department of Transportation; and 2) to provide for the adjustment of any municipally owned utilities without cost to the Department of Transportation. The Department of Transportation will acquire the right-of-way and construct the project according to the project plans. The City will reimburse the Department of Transportation 25% of the right-of-way cost for the project in nine (9) equal annual installments to begin on October 15, 1987.

Mayor Bissette said this matter was previously discussed by members of Council, and members of Council felt the requested 25% of the right-of-way costs for the project to be paid by the City of Asheville was extremely high. He said the Council had previously directed the Mayor and the City Manager to negotiate with the North Carolina Department of Transportation relative to the percentage being requested. He said in talking with the North Carolina Department of Transportation, the City Manager and the Mayor were presented with percentages charges to other cities for rights-of-way participation, which indicated that the City of Asheville was not being singled out with such a high percentage in requested right-of-way cost. He said in the meantime, Representative Hunter of McDowell County and Representative Nesbitt of Buncombe County has introduced a bill in the General Assembly requesting that municipalities be exempt from all right-of-way cost participation. He said after discussion, Council had previously requested that no action be taken on the municipal agreement relative to Hendersonville Road until after action is taken on the proposed bill. He said the North Carolina Department of Transportation has requested that the City, in order to go forward with the widening of Hendersonville Road, authorize the execution of the municipal agreement with the understanding that if the bill pending in legislation is adopted, the City of Asheville would be exempt from right-of-way costs on this project.

Mayor Bissette said, contrary to newspaper reports, he did not say Asheville City Council would take this action on the municipal agreement but, however, he would recommend its approval. He said he would recommend approval of the resolution with the stipulation that if the bill passes, that the City would be exempt from the right-of-way cost since the Hendersonville Road widening has been the number one priority under the Transportation Improvement Program, and the citizens of the area are in dire need of this project.

Councilman Tisdale, disagreeing with Mayor Bissette's recommendation, said he felt this was the highest request percentage-wise right-of-way participation. He said the widening of Hendersonville Road would be of benefit to the City of Asheville as well as Buncombe County, Hendersonville County, and Biltmore Forest. He said he would also like to see Hendersonville Road widened but the cost should be shared equitably.

Councilman Tisdale said he would not be in favor of supporting this resolution, and felt the Council members should wait until a decision is made on the pending bill before taking action on the municipal agreement.

Councilman Boland said he felt this was a complex issue, and it would be premature for Council to approve a resolution. He also suggested that Council wait until a decision is made on the proposed bill.

Vice-Mayor Frank said in talking with the Legislature, Council's delay in taking action on the municipal agreement will not delay the project. She said the requested right-of-way cost of $1,155,500.00 is equal to 6 cents on the tax rate, and felt members of Council should wait until a decision is made on the proposed bill.

Councilman Michalove noted that the Hendersonville Road widening has been a number one priority for a long time, and felt the adoption of this resolution would speed up the process for the widening of Hendersonville Road.

Councilman Bratton said she felt the resolution is a fair compromise and would allow the project to go forward.

Councilman Michalove moved for the adoption of the resolution. This motion was seconded by Councilman Bratton, which motion failed on a 3-3 deadlock vote with Councilman Boland, Vice-Mayor Frank, and Councilman Tisdale voting "no".

IV. NEW BUSINESS

A. ORDINANCE NO. 1630 - AN ORDINANCE AMENDING CHAPTER 13 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE TO PROVIDE A MISDEMEANOR PENALTY FOR VIOLATIONS OF PROVISIONS OF CHAPTER 13 (LITTERING)

Mayor Bissette said Section 13-9 of the Code of Ordinances of the City of Asheville currently provides that "any person continuing to violate any provision or requirement of any section or subsection of this chapter after notice of violation has been issued to him, or any person willfully failing, refusing or neglecting to comply with any such provision or requirements, shall, in addition to any other remedy, be issued a citation in which a penalty of fifty dollars ($50) shall be assessed for each offense with each and every day of violation being a distinct and separate offense. Upon failure to pay said penalty, a civil action may be instituted to enforce collection of same. The Council desires to amend this subsection to provide for a misdemeanor penalty for such violations in lieu of civil penalties.

Mayor Bissette said this amendment will be comparable with the County's ordinance and allow for a strong standardized enforcement in dealing with violators of Chapter 13 of the Code of Ordinances dealing with litter.

Councilman Boland noted that this is only one step in broading the enforcement of the Litter Ordinance. He said the City staff is now reviewing the current ordinance for amendments and will recommend the utilization of all departments in looking for problems relating to litter.

Evelyn Wyatt of the Montford community presented the following list of concerns that need to be addressed in amending the Litter Control Ordinance. 1) Setting trash out on wrong day; 2) dumping; 3) collecting or storing rubbish on property; 4) mowing of property; 5) automobiles on blocks without wheels, motors, etc.; 6) neglected fences, (maintain them or take them down); 7) neglect of sidewalks and property between sidewalk and gutter; 8) maintenance of property (including rear and sides).

Jim Cairnes of 209 Cumberland Avenue also requested a revision of the Housing Ordinance that would allow for demolition of houses without taking a one to one and a half year process.

Willamay Blankenship of 141 Cumberland Avenue requested that Council look into the problem of litter under the Chestnut Street Bridge.

Councilman Boland moved for the adoption of Ordinance No. 1630. This motion was seconded by Councilman Tisdale.

On a roll call vote of 6-0, Ordinance No. 1630 passed on first reading.

Councilman Michalove moved to suspend the rules and proceed to the second reading of Ordinance No. 1630. This motion was seconded by Vice-Mayor Frank and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1630 passed on second reading.

Councilman Michalove moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1630. This motion was seconded by Vice-Mayor Frank, and failed on a deadlock vote of 3-3 with Mayor Bissette, Councilman Boland, and Councilman Tisdale voting "no".

Councilman Boland said he felt uncomfortable in adopting a ordinance on three readings on one particular day without giving the public an opportunity to respond.

V. CONSENT AGENDA

A. RESOLUTION 87-88 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A RIGHT-OF-WAY ENCROACHMENT AGREEMENT BETWEEN THE CITY OF ASHEVILLE AND THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

Resolution Book No. 16, Page 345

B. RESOLUTION 87-89 - RESOLUTION OF INTENT TO CLOSE A PORTION OF DALE STREET AND CALLING A PUBLIC HEARING ON THE QUESTION FOR JUNE 23, 1987

Resolution Book No. 16, Page 346

Upon motion of Councilman Tisdale, seconded by Vice-Mayor Frank, the Consent Agenda was unanimously approved.

VI. OTHER BUSINESS

A. RESOLUTION NO. 87-90 - RESOLUTION AUTHORIZING THE TRANSFER OF LOTS D AND E AS INDICATED ON A SURVEY FROM THE CITY OF ASHEVILLE TO THE ASHEVILLE HOUSING AUTHORITY (SMALL LOTS LOCATED NEAR STEPHENS LEE RECREATION CENTER)

Mayor Bissette said there are several small lots located near Stephens Lee Recreation Center which are of no apparent benefit to the City of Asheville, and the Asheville Housing Authority desires to purchase this property from the City of Asheville for the Dollar A Lot Program. He said this resolution would authorize the Mayor to execute the documents necessary to transfer these lots from the City of Asheville to the Asheville Housing Authority.

Upon motion of Councilman Tisdale, seconded by Councilman Michalove, Resolution No. 87-90 was unanimously adopted.

Complete text of Resolution No. 87-90 will be found in Resolution Book No. 16 at Page 347.

B. REQUEST TO INVESTIGATE MANOR PROPERTY

Councilman Michalove requested that the City Manager give members of Council a status report relative to the Manor property on Charlotte Street.

c. STATUS REPORT ON HOUSES IN MONTFORD AREA

Vice-Mayor Frank requested that the City Manager give members of Council a status report relative to the condemnation of houses in the Montford area.

D. RESOLUTION NO. 87-91 - RESOLUTION REQUESTING THAT THE GENERAL ASSEMBLY NOT ENACT ANY LEGISLATION WHICH WOULD PREVENT THE USE OF AMORTIZATION ON NON-CONFORMING SIGNS

Linn Brown, of 62 Macon Avenue, requested that members of Council adopt a resolution in opposition to a bill being proposed to take away local authority and control which would prevent the use of amortization of non-conforming signs. She said she felt this was an intrusion by the legislature on the powers of local governments.

Councilman Boland read the resolution stating that the City of Asheville has been developing a comprehensive planning strategy known as Alternatives of Asheville which has included the goals, objectives and ideals of many Asheville citizens. He said a major section of the Alternatives plan calls for greater regulation of signs within the City's jurisdiction including a significant recommendation which would establish an amortization schedule for all non-conforming signs inside and outside of the protective federal aid highway corridors. He said the General Assembly of North Carolina is processing a bill (HB1145) which would effectively prohibit the use of the amortization schedule by removing non-conforming signs. He said this resolution would request that the General Assembly not enact any legislation which would prevent the use of the amortization of non-conforming signs for

the following reasons: 1) the General Assembly would be removing a valuable, court-proven tool to improve the aesthetic quality of our mountain area, a quality which is critically important to our way of life and our economy; and 2) the removal of amortization would seriously impact the City's ability to effectively and practically remove non-conforming signs over a reasonable period of time.

The City Manager noted that the League of Municipalities is in opposition to the proposed bill.

Councilman Boland moved for the adoption of Resolution No. 87-91. This motion was seconded by Vice-Mayor Frank and carried unanimously.

Complete text of Resolution No. 87-91 will be found in Resolution Book No. 16 at page 348.

Councilman Boland said he felt the City Council should adopt a resolution of intent to support the federal highway logo program. He said he would like to see this program accelerated.

E. REPORT RELATIVE TO INTERGOVERNMENTAL SERVICES COMMITTEE MEETING

Vice-Mayor Frank noted that the Intergovernmental Services Committee met today at 12:30 p.m. She said she would be giving members of Council a progress report on the meeting in the near future.

Councilman Bratton said since the County has approved the implementation of the 911 emergency number, she suggested that the Mayor coordinate with the County recognition to Scott Fowler for bringing the 911 emergency number to Council's and County Commissioner's attention.

F. EEO TASK FORCE MEETING

Councilman Boland noted that he had met with the City Manager and the Director of Personnel, and a meeting of the Equal Employment Opportunity Task Force has been scheduled for June 1, 1987 at 3:00 p.m.

G. REPORT RELATIVE TO STORM DRAINAGE ON HARNETT STREET

Upon inquiry of a citizen on Harnett Street, the Mayor said the City Manager is in the process of presenting a report to members of Council relative to the repair of emergency storm drainage problems. He said the Vance School area will be included in that report.

H. CLAIMS - EDITH OWENBY (WATER) - GRETA CLARK (PARKS & RECREATION)

City Manager presented claims from Edith Owenby and Greta Clark.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

I. RALPH BISHOP - ASHEVILLE POLICE DEPARTMENT - LOTTERY SALES

Ralph Bishop again spoke to members of Council relative to the Asheville Police Department and lottery sales in the City of Asheville.

ADJOURNMENT

Mayor Bissette adjourned the meeting at 5:20 p.m.

MAYOR

CITY CLERK

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter R. Boland, Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter, City Manager Douglas O. Bean, and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Norma Price.

APPROVAL OF THE MINUTES - MAY 19, 1987 MEETING

Consideration was given to the approval of the minutes of the May 19, 1987, meeting.

Mayor Bissette announced approval of the minutes as submitted.

I. PROCLAMATIONS

A. MONTH OF JUNE, 1987 - "PROJECT ZETA, SAY NO TO DRUGS"

Mayor Bissette read a proclamation proclaiming the month of June, 1987 as "Project Zeta, Say No To Drugs". Mayor Bissette presented the proclamation to Mabel Hopkins, Past President of Beta Lambda Zeta Chapter of Zeta Phi Beta Sorority, Inc. He said the Council is very appreciative of what the Sorority is doing about a very serious problem in our community.

SPECIAL PRESENTATION

A. GEORGE HUMPHRIES - PRESENTATION ON BICENTENNIAL ACTIVITIES

Mayor Bissette introduced George Humphries, Chairman of the Asheville-Buncombe Bicentennial Committee. Mr. Humphries reviewed the organizational structure of the Bicentennial Commission from the national level to the local level. He said the purpose of the Bicentennial Commission is to promote, educate, and generate interest in The Constitution. He said the Committee will kick off the 3-year celebration on August 17th with an exhibit at City/County Plaza which will include a draft of The Constitution, an original Magna Carta, and an copy of the Declaration of Independence. He said other activities are planned throughout the 3-year celebration. He extended an invitation to anyone interested in ensuring the success of the celebration in our community to join the Bicentennial Committee.

Mayor Bissette thanked Mr. Humphries for all the hard work he had put into the Committee.

Councilman Price suggested that Mr. Humphries contact Mrs. Tom Dabney to see if she would be interested in serving on the Committee.

Councilman Tisdale suggested that Mr. Humphries contact Mr. William Cecil and see if he would be interested in serving on the Committee.

II. PUBLIC HEARINGS

A. TO RECEIVE PUBLIC COMMENTS ON THE COMMUNITY DEVELOPMENT NEEDS AND FINAL STATEMENT OF COMMUNITY DEVELOPMENT BLOCK GRANT OBJECTIVES FOR 1987-88

RESOLUTION NO. 87-92 - AUTHORIZING SUBMISSION OF A FINAL STATEMENT OF COMMUNITY DEVELOPMENT OBJECTIVES AND PROJECTED USE OF FUNDS TO THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR COMMUNITY DEVELOPMENT BLOCK GRANT ENTITLEMENT FUNDS FOR 1987-88

Mayor Bissette said this public hearing is being held to receive public comments on the community development needs and final statement of Community Development Block Grant Objectives for 1987-88. He said at the conclusion of the public hearing, the City Council will adopt a resolution authorizing the submission of the final statement of objectives and projected use of funds of Community Development Block Grant Entitlement Funds for 1987-88.

Mayor Bissette opened the public hearing at 4:30 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing, and the affidavit of publication

Scott Dedman of Pisgah Legal Services spoke in support of proposed budget for Community Development Funds. He said the budget shows strong support for housing for low and moderate income families. He also recommended that the Economic Development Program for the YMI be considered for funding.

Mayor Bissette closed the public hearing at 4:35 p.m.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Vice Mayor Frank, seconded by Councilman Price, Resolution No. 87-92 was unanimously adopted.

Complete text of Resolution No. 87-92 will be found in Resolution Book No. 16, page 349.

III. OLD BUSINESS

A. Second reading of Ordinance No. 1629, an ordinance rezoning property located on Vanderbilt Road from R-3 Residential District to R-1 Residential District.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held March 25, 1987, discussed the request of Asheville City Council that consideration be given to rezoning certain lots on Vanderbilt Road from R-3 Residential District to R-1 Residential District. After review and discussion,

the Commission voted to recommend to City Council that Lots 58-1/2, 56-1/2, 56-1/4 and a portion of Lots 54 and 53-1/2, Sheet 4, Ward 7 be rezoned from R-3 Residential District to R-1 Residential District. He said this ordinance passed on first reading on May 19, 1987.

O. Claude Smith, resident of 296 Vanderbilt Road and owner of Lot 56-1/2, spoke in opposition to the proposed rezoning. He said when he checked into the building permit for a cabinet shop being built behind his property, the permit indicated it was an extension of an existing building. He said he inquired whether this could be done in a R-3 zone, and was assured that it would make no difference if it was in a R-1 zone. He said, in his opinion, there was no rational reason for City Council to request the rezoning. In addition, he said, there is a growing concern that City Council not "spot zone" and that the property adjacent to these lots are not zoned R-1. He also said he didn't believe City Council had adequately investigated services rendered by the City of Asheville to the lots in question prior to requesting that the lots be rezoned. He said if the City of Asheville failed to take action on the rezoning, it might encourage Biltmore Forest to work more closely with the City of Asheville on changing the boundaries.

Upon inquiry of Councilman Tisdale, Mr. Smith confirmed that he is the owner of Lot 56-1/2 and that part of his property is within the boundaries of the City of Asheville and Biltmore Forest and that he pays taxes to both municipalities.

Councilman Tisdale said the purpose of the rezoning is to protect the residential aspects of Vanderbilt Road.

Councilman Price questioned whether or not the surrounding property, which is located within the boundaries of Biltmore Forest, has zoning equivalent to that of the R-1 Residential District proposed by the City of Asheville.

Mayor Bissette assured Mr. Smith that Biltmore Forest was anxious to change the boundaries. He said changing the boundaries is a more complicated process and would require action by the General Assembly.

Councilman Michalove moved to postpone the second reading of Ordinance No. 1629 until June 9, 1987, to request that the City Manager obtain a report from the Inspections Division relative to the cabinet shop, that the City Manager meet with Mr. Smith regarding services, that the City Manager obtain a clear report on where taxes are being paid, and to request the City Attorney to render an opinion on the question of spot zoning.* This motion was seconded by Councilman Price and carried unanimously. *and for the City staff to contact the property owners involved, particularly being Mrs. Taylor and Mrs. Anderson.

Mayor Bissette requested that the Biltmore Forest also be contacted so the Council would have the benefit of hearing from them prior to the second reading scheduled for June 9th.

B. THIRD READING OF ORDINANCE NO. 1630, AN ORDINANCE AMENDING CHAPTER 13 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEIVLLE (LITTERING) TO PROVIDE A MISDEMEANOR PENALTY FOR VIOLATIONS OF THE PROVISIONS OF CHAPTER 13

Mayor Bissette said Section 13-9 of the Code of Ordinances of the City of Asheville (Littering) currently provides that "any person continuing to violate any provision or requirement of any section or subsection of this chapter after

notice of violation has been issued to him, or any person willfully failing, refusing or neglecting to comply with any such provision of requirements, shall, in addition to any other remedy, be issued a citation in which a penalty of fifty dollars ($50) shall be assessed for each offense with each and every day of violation being a distinct and separate offense. Upon failure to pay said penalty, a civil action may be instituted to enforce collection of same. The Council desires to amend this subsection to provide for a misdemeanor penalty for such violations in lieu of civil penalties. He said this ordinance passed on first and second reading on May 12, 1987.

On a roll vote of 7-0, Ordinance No. 1630 passed on third and final reading.

Complete text of Ordinance No. 1630 will be found in Ordinance Book No. 11 at page 131.

IV. NEW BUSINESS

A. PRESENTATION OF THE CITY OF ASHEVILLE BUDGET FOR 1987-88 AND SCHEDULING A PUBLIC HEARING RELATIVE TO THE BUDGET FOR JUNE 9, 1987

Mayor recognized City Manager Doug Bean for presentation of the Budget.

City Manager Doug Bean presented copies of the proposed budget to the Mayor and Members of City Council. He gave a detailed summary of each fund included in the budget. He said the proposed 1987-88 Budget of $45,483,509 maintains the current tax rate of 68 cents per $100 valuation. Mr. Bean recognized the work Department and Division Heads had done in putting together their budget requests and thanked Bob Wurst and the staff of the Audit and Budget Department for their efforts. He said Bob Wurst had gone beyond the call of duty in putting the budget together. He thanked the Council for their support and the many hours they had devoted to reviewing the budget.

Councilman Price moved to schedule a public hearing on the 1987-88 Budget for June 9, 1987. This motion was seconded by Councilman Boland and carried unanimously.

B. ORDINANCE NO. 1631 - BUDGET ORDINANCE AMENDMENT - TO APPROPRIATE LOCAL FUNDS FOR INTEREST REDUCTION COST OF NCHFA HOME IMPROVEMENT LOAN PROGRAM

Mayor Bissette said this budget ordinance amendment will appropriate $10,564 of General Fund revenue for the required interest reduction cost of the North Carolina Housing Finance Agency (NCHFA) Home Improvement Loan Program. The City's participation in this program will leverage $70,000 of NCHFA funds for owner occupied housing rehabilitation loans. He said local funds will be provided from the General Fund non-department contingency account.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety unless there was a specific request to do so.

Councilman Price moved for the adoption of Ordinance No. 1631. This motion was seconded by Vice Mayor Frank.

On a roll call vote of 7-0, Ordinance No. 1631 passed on first and final reading.

Complete text of Ordinance No. 1631 will be found in Ordinance Book 11 at page 132.

C. RESOLUTION NO. 87-93 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT BY AND AMONG THE CITY OF ASHEVILLE, THE COUNTY OF BUNCOMBE, AND THE STATE OF NORTH CAROLINA TO ESTABLISH THE METROPOLITAN ENFORCEMENT GROUP (MEG) TO ENFORCE DRUG LAWS IN ASHEVILLE AND BUNCOMBE COUNTY

Mayor Bissette said the City of Asheville, the County of Buncombe, and the State of North Carolina have joined together in a cooperative program to enforce the drug laws of the State of North Carolina through the establishment of the Metropolitan Enforcement Group (MEG). This program will provide a successful and economical approach to enforcing drug laws in Buncombe County. Manpower will be provided by the City, the County, and the State for the operation of this program. He said Buncombe County Commissioners have already approved the agreement and it has been signed by their Chairman. He said he hopes this program will provide the enforcement manpower we need to put teeth in our drug laws.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety unless there was a specific request to do so.

Ralph Bishop inquired whether or not lottery laws could be included in the drug enforcement agreement.

Upon motion of Councilman Boland, seconded by Vice Mayor Frank, Resolution No. 87-93 was unanimously adopted.

Complete text of Resolution No. 87-93 will be found in Resolution Book No. 16 at page 350.

D. BIDS - REHABILITATE AND REPOWER FIFTEEN (15) 30-FOOT GMC TRANSIT COACHES FOR THE ASHEVILLE TRANSIT AUTHORITY

Mayor Bissette said bids were received on April 24, 1987 to rehabilitate and repower fifteen (15) GMC Transit Coaches for the Asheville Transit Authority. Two bids were received - ABC Bus Manufacturing, Faribault, Minnesota, in the amount of $800,055.00; and Midwest Bus Rebuilders Corporation of Owosso, Michigan, in the amount of $804,750.00. Don Heaton, ATA Manager, and Carl Ownbey, ATA Planner, have reviewed the bids for technical compliance to specifications and find that the low bid submitted by ABC Bus Manufacturing, Inc. does meet specifications. He said this purchase is approved by UMTA Project No. NC-90-X030 and funds are available in Account No. 67-916-0740-916 for this work.

Carl Ownbey, Planner for Asheville Transit Authority, said these buses are 1969 models, are totally city-owned, and this work is expected to extend the life of the buses another 5-7 years.

Vice Mayor Frank moved to award the bid to the low bidder, ABC Bus Manufacturing in the amount of $800,055.00. This motion was seconded by Councilman Tisdale and carried unanimously.

V. CONSENT AGENDA

A. APPROVAL OF BIDS FOR COMPUTER WORK STATIONS, HARDWARE, AND SOFTWARE FOR THE GENERAL ADMINISTRATION, FINANCE, AND PLANNING DEPARTMENTS

B. APPROVAL OF BIDS FOR SKID STEER LOADER AND MULTI-PURPOSE BUCKET/PARKS DEPT.

C. RESOLUTION NO. 87-94 - AUTHORIZING THE CITY MANAGER TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE AN AGREEMENT BY AND BETWEEN THE CITY AND BUNCOMBE CONSTRUCTION COMPANY FOR CONSTRUCTION OF AN ADDITION TO THE ASHEVILLE TRANSIT AUTHORITY

Resolution Book 16, page 351.

D. RESOLUTION NO. 87-95 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE AN AGREEMENT BY AND AMONG THE NORTH CAROLINA HOUSING FINANCE AGENCY AND FIRST FEDERAL SAVINGS AND LOAN ASSOCIATION FOR THE HOME IMPROVEMENT LOAN PROGRAM

Resolution Book 16, page 352.

Upon motion of Councilman Price, seconded by Vice Mayor Frank, the Consent Agenda was unanimously approved.

VI. OTHER BUSINESS

A. COUNCILMAN PRICE - RESOLUTION REQUESTING NORTH CAROLINA GENERAL ASSEMBLY NOT TO PASS HB 1145 PROHIBITING THE USE OF THE AMORTIZATION SCHEDULE OF REMOVING NON-CONFORMING SIGNS

Councilman Price said she noticed in last week's minutes that Council had adopted a resolution requesting that the North Carolina General Assembly not pass HB 1145 prohibiting the use of the amortization schedule of removing non-conforming signs. She inquired about the timeframe and possibility of Council adopting an ordinance relative to non-conforming signs.

Mayor Bissette requested that the City Manager give Council a report next week on exactly what HB 1145 is doing and what alternatives the Council might have.

B. CLAIMS - JUDITH RICE (WATER), EARL CARSON (SANITATION), AND RALPH CONGDON (CIVIC CENTER)

The City Manager presented claims received from Judith Rice (Water), Earl Carson (Sanitation), and Ralph Congdon (Civic Center).

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

C. LAWSUITS - HOUSING AUTHORITY OF THE CITY OF ASHEVILLE VS. SIDNEY M. SCHOCHET AND WIFE, MARY P. SCHOCHET, ET AL

The City Manager said the City was served with a summons in connection with a lawsuit involving the Housing Authority of the City of Asheville vs. Sidney M. Schochet and wife, Mary P. Schochet, et al (condemnation of property - East End/Valley Street Project).

Mayor Bissette referred the summons to the Corporation Counsel for investigation and recommendation.

D. RALPH BISHOP - ASHEVILLE POLICE DEPARTMENT - LOTTERY SALES

Ralph Bishop addressed the Council relative to the Asheville Police Department and the lack of enforcment relative to lottery sales in the City of Asheville.

VII. ADJOURNMENT

Mayor Bissette adjourned the meeting at 6:25 p.m.

MAYOR

CITY CLERK

Tuesday - June 2, 1987 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter R. Boland; Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott.

Absent: None

INVOCATION

The invocation was given by Vice-Mayor Mary Lloyd Frank.

APPROVAL OF THE MINUTES - MAY 26, 1987 MEETING

Consideration was given to the approval of the minutes of the May 26, 1987, meeting.

Mayor Bissette announced the approval of the minutes with several noted corrections.

PRESENTATION BY ASHEVILLE HOUSING AUTHORITY - PAYMENT IN LIEU OF TAXES

Mrs. Earl Shook, member of the Asheville Housing Authority, and David Jones, Executive Director of the Housing Authority, presented Mayor Bissette with a check in the amount $54,929.29, less $7,433.67 for collection of sanitation services, as payment in lieu of taxes. Mrs. Shook noted that the Housing Authority has refunded over $225,000.00 to the City as payment in lieu of taxes since 1951.

I. PROCLAMATIONS

A. MONTH OF JUNE, 1987, AS "RAPE PREVENTION MONTH"

Mayor Bissette proclaimed the month of June, 1987 as "Rape Prevention Month". He said a copy of the proclamation would be forwarded to the Rape Crisis Center.

B. JUNE 5 - 7, 1987, AS "UNITED STATES POSTAL SERVICE CAREER AWARENESS"

At the request of the United States Postal Service, Mayor Bissette proclaimed June 5 - 7, 1987 as "United States Postal Service Career Conference Days".

C. JUNE 1 - 6, 1987, as "MANAGEMENT WEEK"

Mayor Bissette proclaimed June 1 - 6, 1987 as "Management Week".

Mayor Bissette presented the proclamation to Wilma Momkes and Tom Parker, with the Chapter Relations of the National Management Association.

RESOLUTION NO. 87-96 - RESOLUTION HONORING ASHEVILLE HIGH SCHOOL'S MEN'S TENNIS TEAM, 4-A STATE CHAMPIONSHIP 1987

Mayor Bissette read a resolution honoring Asheville High School's Men's Tennis Team for winning the 4-A State Championship in Chapel Hill on Thursday, May 28, 1987.

Upon motion of Vice-Mayor Frank, seconded by Councilman Price, Resolution No. 87-96 was unanimously adopted.

Complete text of Resolution No. 87-96 will be found in Resolution Book No. 16 at Page 353.

Mayor Bissette recognized Brigitte Worden, coach for the men's tennis team, and tennis team members John Bristow and Todd Bagley.

ORDINANCE NO. 1632 - BUDGET ORDINANCE AMENDMENT APPROPRIATING FUNDS FOR LAND ACQUISITION FOR WALL STREET PROJECT

The City Manager noted that the City is in the process of closing on properties for the Wall Street Parking Garage and it is necessary to appropriate the funds to purchase the properties. He said the funding would be $500,000 from general revenue sharing and $325,000 from the sale of airport (WCI) properties, however, this would be reimbursed by bond proceeds. He said the closing cost for the Wall Street project is $778,779.50.

Councilman Boland moved for the adoption of Ordinance No. 1632. This motion was seconded by Councilman Price.

On a roll call vote of 7-0, Ordinance No. 1632 passed on first and final reading.

Complete text of Ordinance No. 1632 will be found in Ordinance No. 11 at page 133.

II. PUBLIC HEARINGS

A. PUBLIC HEARING RELATIVE TO CLOSING CERTAIN ALLEYS AND PORTIONS OF AN ALLEY IN THE BLOCK BOUNDED ON THE NORTH BY WALNUT STREET, ON THE EAST BY RANKIN AVENUE, ON THE SOUTH BY COLLEGE STREET AND ON THE WEST BY HAYWOOD STREET.

Mayor Bissette said the City Council deems it in the best interest of the City to permanently close the alleys. Said alleys are under the sole and exclusive authority and control of the City of Asheville and are not under the authority and control of the North Carolina Department of Transportation. The closing will not be either detrimental or contrary to the public interest of the property rights of any individual in the vicinity of the alleys and the closing will not deprive any individual of reasonable means of ingress and egress to his property.

Mayor Bissette opened the public hearing at 4:23 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

The City Manager, by the use of a map, showed the location of the alleys proposed to be closed for the construction of the Rankin Street Parking Garage.

Albert Sneed, Attorney representing Daniels Business Service, Inc., said his client owns property in the vicinity of the alley proposed to be closed. He said his client does not want to stand in the way of the construction of the parking garage; however, the closing of the alley would be detrimental to his client's property rights and would deprive him of ingress and egress to his business.

He said his client has used the proposed alley for purposes of ingress and egress for many years for shipping and delivery of goods.

Alfred Miller, former owner of Daniels Business Service, said he had also used the alley for shipping and delivery since 1924.

Bill Culbertson, employee of Daniels Graphics, said tractor-trailer rigs use the alley and have used the alley daily since 1951 for delivery of printing goods.

David Aiton, with Danie Johnson Architects, showed members of Council drawings as to how the alley is currently used by Daniels Business Service.

Jim Daniels, owner of Daniels Business Service, said if the alley in question is closed there won't be room for the tractor trailer rigs to approach his business. He said if the trucks cannot approach the business, the business will cease to exist and if the businesses aren't there, there will not be the need for a parking deck downtown.

John Tyson, legal counsel for Revco Drugstores, owner of property at 19-20 Haywood Street stated that his client owns property adjoining the alley proposed to be closed. He said his client has occupied that building for 18 years and has used the alley for delivery and service. He said it is his understanding that the plan calls for the narrowing of the alley that handles the large trucks delivering to the rear entrance to the Revco drugstore fronting Haywood Street and the rear of the old Bon Marche building farther up Haywood. He said the closing of the alley or the narrowing would be a violation of the public interest and deprive the individual property owners of ingress and egress.

Lou Millen, owner of T. S. Morrison Company, spoke in support of the construction of the Rankin Street Parking Garage.

John Powell, Attorney representing Frank Laughran Estates and owner of Bon Marche buildings, expressed concern over the narrowing of the alley that services the rear of the old Bon Marche buildings.

Bill Duckworth, rental agent for the Laughran heirs, and Myers Arnold, said the alley in question is a major direct access to the rear of several businesses. He said he felt the alley and proposed parking deck could be engineered in some way to allow the property owners ingress and egress to their property.

Betty Kdan, with High County Crafters on Haywood Street, asked members of Council whether or not she would be able to use the stairway during construction of the parking garage.

John Cooper, with Enwright Associates, said his company had completed the design for the Rankin and Wall Street Parking Decks. He said he had looked into all the problems expressed by the businesses and into several alternatives to those problems. He said any of the alternatives would be impractical and extremely expensive to the City.

A lengthy discussion was held relative to the alternatives to closing the alley and resolving the problems of existing businesses in the area.

Councilman Michalove moved to continue the public hearing for one week without further advertisement giving the City Manager and Enwright Associates an opportunity to discuss alternatives and solutions to the existing businesses' concerns. This motion was seconded by Councilman Boland and carried unanimously.

At the request of Councilman Boland, Mr. Daniels said he would solicit alternative ideas from architects of his choosing and present the findings at next week's meeting.

Mayor Bissette requested that John Cooper give members of Council a cost estimate on a "notch" in the deck that would allow Daniels' trucks to maneuver in the alley and also cost estimates for widening the alley.

III. OLD BUSINESS

None scheduled.

IV. NEW BUSINESS

A. ORDINANCE NO. 1633 - ORDINANCE AMENDING **PARKING RATES ESTABLISHED IN THE ASHEVILLE CODE OF ORDINANCES SECTION 28-128 AS AMENDED**

Mayor Bissette said this ordinance will amend the entire Section 28-128 as amended in order to allow for the establishment of a new policy regarding rates to be charged for off-street parking. He said this ordinance would be effective at 12:00 p.m. on June 30, 1987.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be re-read in its entirety. He said any individual requesting a copy of the ordinance would be furnished one at no cost.

Councilman Boland moved for the adoption of Ordinance No. 1633. This motion was seconded by Councilman Michalove.

On a roll call vote of 7-0, Ordinance No. 1633 passed on first reading.

Councilman Michalove moved to suspend the rules and proceed to the second reading of Ordinance No. 1633. This motion was seconded by Vice-Mayor Frank and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1633 passed on second reading.

Councilman Michalove moved to suspend the rules and proceed to the third reading of Ordinance No. 1633. This motion was seconded by Vice-Mayor Frank and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1633 passed on third and final reading.

Complete text of Ordinance No. 1633 will be found in Ordinance Book No. 11 at page 134.

B. RESOLUTION NO. 87-97 - RESOLUTION ESTABLISHING POLICY REGARDING RATES TO BE CHARGED FOR ALL OFF-STREET PARKING IN THE CITY OF ASHEVILLE

Mayor Bissette said the City Council has established a downtown parking enterprise fund for the purpose of accounting for downtown parking as a self-supporting operation. Parking rates should be adequate to support the cost for providing parking services and should be reviewed periodically to determine if they are adequate and competitive. A new rate schedule for off-street parking will be in effect July 1, 1987. The rate schedule will be incorporated in the City's fees and charges manual for reference and be reviewed and adopted annually with the fees and charges manual.

Mayor Bissette said members of Council were furnished copies of the resolution and it would not be read in its entirety. He said any individual requesting a copy of the resolution would be furnished one at no cost.

Upon motion of Vice-Mayor Frank, seconded by Councilman Michalove, Resolution No. 87-97 was unanimously adopted.

Complete text of Resolution No. 87-97 will be found in Resolution Book No. 16 at page 354.

C. RESOLUTION NO. 87-98 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A LEASE ON BEHALF OF THE CITY OF ASHEVILLE FOR PROPERTY AT ASHEVILLE REGIONAL AIRPORT FOR WIND SHEAR TOWER

Mayor Bissette said the Federal Aviation Agency desires to construct, as a safety aid, a series of Wind Shear Towers in and around the Asheville Regional Airport. One of the towers is to be located on City of Asheville property adjacent to the airport. The FAA requests a lease to be executed for this 20' x 20' piece of property. The FAA has further requested that since this additional safety aid is in the best interest of the Asheville Regional Airport and the City of Asheville that there be no monetary consideration in the form of rental. This resolution will authorize the Mayor to execute said lease agreement.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety. He said any individual requesting a copy of the resolution would be furnished one at no cost.

Upon motion of Councilman Michalove, seconded by Councilman Bratton, Resolution No. 87-98 was unanimously adopted.

Complete text of Resolution No. 87-98 will be found in Resolution Book No. 16 at page 355.

D. RESOLUTION NO. 87-99 - RESOLUTION IDENTIFYING AREAS AS BEING UNDER CONSIDERATION FOR ANNEXATION BY THE CITY OF ASHEVILLE

Mayor Bissette said pursuant to Part III, Article 4-A of Chapter 160A of the General Statutes of North Carolina, this resolution will identify areas that the City of Asheville is considering for future annexation.

Verl Emrick, Director of Planning, by the use of a map, outlined the boundaries around the City that will be considered for annexation in the next three years.

Upon motion of Councilman Michalove, seconded by Councilman Boland, Resolution No. 87-99 was unanimously adopted.

Complete text of Resolution No. 87-99 will be found in Resolution Book No. 16 at page 356.

E. RESOLUTION NO. 87-100 - RESOLUTION DIRECTING THE CITY CLERK TO ADVERTISE AN OFFER FOR THE LEASE OF PROPERTY BY THE CITY OF ASHEVILLE TO THE ASHEVILLE-BUNCOMBE DEVELOPMENT CORPORATION IN CONNECTION WITH THE CONSTRUCTION OF THE WALL STREET AND RANKIN AVENUE PARKING GARAGES

Mayor Bissette said the City of Asheville has negotiated an offer to lease property to the Asheville-Buncombe Development Corporation. The offer provides for the lease of property upon the condition that the Asheville-Buncombe Development Corporation cause to be constructed upon each of said properties, a parking garage complex, both of which will be leased to the City by the Asheville-Buncombe Development Corporation, with the lease payments to be based upon the expenses incurred by Asheville-Buncombe Development Corporation in connection with the garages. He said this resolution will direct the City Clerk to advertise a notice of the negotiated offer.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety. He said any individual requesting a copy of the resolution would be furnished one at no cost.

Upon motion of Councilman Bratton, seconded by Councilman Price, Resolution No. 87-100 was unanimously adopted.

Complete text of Resolution No. 87-100 will be found in Resolution Book No. 16 at page 357.

V. CONSENT AGENDA

None scheduled.

VI. OTHER BUSINESS

PUBLIC HEARINGS SCHEDULED

CHEROKEE PLACE SHOPPING CENTER US 74 - FAIRVIEW ROAD - SITE PLAN

MILKCO, INC. - 220 BEAVERVIEW ROAD - SITE PLAN

STOWAWAY WAREHOUSES - WILMINGTON ROAD - SITE PLAN

Councilman Price moved to schedule public hearing for the Cherokee Place Shopping Center site plan, Milkco, Inc. site plan and the Stowaway Warehouses on Wilmington Road site plan for June 16, 1987. This motion was seconded by Councilman Tisdale and carried unanimously.

CIVIL SERVICE BOARD ELECTION RESULTS

The City Manager noted that an election was held on Thursday, May 28, 1987, by the employees of the Classified Service and George Bancroft and David Ward, were elected as members of the Civil Service Board.

REQUEST OF PLANNING & ZONING COMMISSION RELATIVE TO AMORTIZATION OF NON-CONFORMING SIGNS

Councilman Price moved to ask the Planning & Zoning Commission to make a recommendation to City Council concerning the feasibility of amending the zoning ordinance to provide for the amortization of non-conforming signs. This motion was seconded by Councilman Boland and carried unanimously.

WAYNE WARREN - ASHEVILLE POLICE DEPARTMENT

Wayne Warren, with the Asheville Police Department, spoke to members of Council relative to the salary levels of employees of the Asheville Police Department. He said a survey was conducted which revealed that the Asheville Police Department topped 22% in the loss of personnel in the past 17 months. He said the Asheville Police Department is losing experienced personnel and 89% of the employees stated pay as the #1 reason for leaving. He said he feels service to the citizens of Asheville is being hampered by the loss of this experienced personnel. He said the majority of the officers leaving are staying in the law enforcement career but are leaving for more money. He said this was going to have a long-term effect on the City of Asheville. He said at present two-thirds of the bureau has less than five years experience. He requested that Council consider these facts in the upcoming budget.

Upon inquiry of Councilman Tisdale, Mr. Warren said he was speaking as President of the Police Benevolent Association.

Mayor Bissette told Mr. Warren Council would look into his concerns.

CLAIMS - CHARLES SMITH (STREETS) - WILLIAM BLOUNT (TRAFFIC ENGINEERING) - CARRIE SIRCEY (WATER)

The City Manager presented claims received from Charles Smith, William Blount, and Carrie Sircey.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

LAWSUIT - GERRI LYNN MOORE VS. CARL LEROY DAVIS AND THE CITY OF ASHEVILLE (BODILY INJURIES RESULTING FROM AUTOMOBILE ACCIDENT)

The City Manager said the City was served with a lawsuit on May 29, 1987, as a party in the Geri Lynn Moore vs. Carl Leroy Davis and the City of Asheville case regarding bodily injuries resulting from an automobile accident.

Mayor Bissette referred the lawsuit to the Corporation Counsel for investigation and recommendation.

ADJOURNMENT

Mayor Bissette adjourned the meeting at 7:20 p.m.

Mayor

City Clerk

Tuesday - June 9, 1987 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Councilmen Wilhelmina Bratton, Walter R. Boland; Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Vice-Mayor Mary Lloyd Frank

INVOCATION

The invocation was given by Councilman Wilhelmina Bratton.

APPROVAL OF THE MINUTES - JUNE 2, 1987 MEETING

Mayor Bissette announced the approval of the minutes of the June 2, 1987 meeting with several noted corrections.

INTRODUCTION OF ANNA WARREN, MISS ASHEVILLE

Barbara Pate introduced Anna Warren, Miss Asheville.

Mayor Bissette and members of Council wished Miss Warren the best in the upcoming Miss North Carolina pageant.

II. PUBLIC HEARINGS

A. PUBLIC HEARING - CITY OF ASHEVILLE BUDGET FOR FISCAL YEAR 1987-88

Mayor Bissette opened the public hearing at 4:15 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing, and the affidavit of publication.

The City Manager noted that the budget was presented on May 26, 1987, along with the budget message.

David Anders, President of the Firefighters Association, speaking on behalf of all fire department personnel and retirees, spoke to members of Council relative to the pension and disability fund and pay inequities. Mr. Anders read the following statement:

June 9, 1987

Dear Council Member:

Our request concerning pay and retirement benefits were given to you April 7, 1987. Since that time the City Manager has promised to investigate our concerns.

The fire personnel are fully aware the City of Asheville operates under a council/manager form of government and personnel matters are the responsibility of the City Manager. We fully intend to support him under our existing system, however, records show the city's policy has constantly discriminated against fire employees for over thirty years and developing policy is the responsibility of the Council.

Given the above factors, the public hearing of the 87-88 budget, and that it has been over two months since we made our original requests, we bring our petition before you.

City's Contribution Less

From 1939 to 1955 both the City of Asheville and the Fire Department Employees contributed 2% of the gross salary to the Firemen's Pension and Disability Fund. In 1955 the fire employees contributions were increased to 5% and the city dropped their contribution to zero in 1956 and 1957 (see Attachment 1). For 15 years (1956-1971) the city contributed approximately 1.2%. Attachment 1 shows the city contributed zero to the pension during the fiscal year 69-70. A statement of receipts and disbursements for the Firemen's Pension Fund, December 31, 1970, shows the city actually withdrew $12,598.57 from the account. No other city department retirement program suffered such neglect and abuse.

Firemen's Relief Fund

The Firemen's Relief Fund was established in 1908 by Chapter 118 of the North Carolina General Statutes. The law required that fire insurance companies, doing business in cities with organized fire departments, pay fifty cents (50¢) of every one hundred dollars worth of premiums to the Firemen's Relief Fund to be disbursed for the benefit and welfare of retired fire fighters.

The City of Asheville had Section 118-7 amended in 1959 by Chapter 759 of the 1959 Session Laws of the North Carolina General Assembly (Attachment 2), which required that all funds in excess of ten thousand dollars be paid to the Asheville Firemen's Pension and Disability Fund each year.

Statements of Receipts and Disbursements, Firemen's Pension and Disability Fund, which were submitted to the City Council each year, reveal that relief fund monies were never deposited in the Pension Trust Fund until 1977. Cross checking with figures from Attachment 1, along with the additional information from the yearly statements support this conclusion (see Attachment 3).

The city was in violation of the amendment to G.S. 118-7 and no other city employees were required to suppliment their retirement program beyond the amount deducted from their salary. The city has discriminated against fire department employees for twenty years by taking this money.

Disability Retirement

In 1979 the fire department employees voted to transfer to the Local Government Employees Retirement Ststem (LGERS). The Fire Retirement Committee asked that the city make up the difference anytime LGERS was less than the old pension. Fire fighters who have been disabled receive approximately 47% retirement based on thirty years service time credit. Just recently the police transferred to LGERS and the council has agreed to suppliment disabled retirees up to 70% of their salary at the time of retirement. Since both retirement plans were the same, why has the City of Asheville given fire fighters less consideration?

Present Employees

When fire department employees transferred to LGERS, we were required to pay our way. Other city employees were transferred with little or no money involved. Since 1979 the city has been paying into two retirement plans for all other city employees. Again, city policy has been to discriminate against fire department employees with only one retirement plan. We ask again, why are fire department employees given less consideration than all other city employees?

Minimum Retirement

Just recently this City Council voted to increase police pensions to a minimum of $400.00 per month and officers widows to $200.00 per month. We have retired fire fighters drawing less than $200.00 each month and widows less than $75.00 without Social Security. This Council is aware that both fire and police retirement plans were identical and set up at the same time. Why were retired fire fighters given less consideration?

Comparison of Pay

Comparisons of pay and benefits obtained from fire department administrators in nine cities in North Carolina show Asheville as the lowest paid department. Cities, the approximate size of Asheville, such as

Chapel Hill and High Point, start fire fighters at close to $2,000.00 more per year. Overall average for beginning pay is 17.4% higher than Asheville. Hendersonville, with only two stations, start fire fighters at $14,780.00, $1,230.00 more than Asheville. The majority of the cities contacted have some type of longevity compensation and most cities are paying into an additional retirement plan for their employees. This is not true in Asheville.

It should be pointed out that this is fiscal year 86-87 comparisons on pay. Even if we were brought up to these averages, given that all departments were expecting from 3.5% to 6% raises, we would still be below average July 1, 1987.

Requests

1. We request the city return the money taken between 1959 and 1979 ($166,996.79 plus interest) to the local relief fund account. The city recently bought out the Law Enforcement Officers Retirement (LEO) at a much greater cost. Why should fire department employees be given less consideration than other city employees.

2. We ask the city keep faith with fire employees in the pension subsidy request. This was intended to include disability as well as normal retirement. Our disabled retirees are now making 47% of salary where under the old plan they made 70%. Disabled police will receive 70%.

3. We request the city meet with fire employees and work out an additional retirement program. All city employees except fire fighters have two (2) retirement plans.

4. We request that all retired employees be brought to a minimum of $400.00 each month and their widows to $200.00. This was done for other department employees.

5. We request that this Council develop policy to bring fire department employees to a midpoint average of pay, using cities in North Carolina the approximate size or larger than Asheville. This was done when determining the salary for the City Manager.

FIREMEN'S PENSION FUND

ATTACHMENT #

CAL AR	FIRE GROSS PAYROLL (1)	2% THEREOF	CITY CONTRIBUTION	CONTRIBUTIONS FROM FIREMEN (2)	RECEIVED FROM N.C. FIREMEN'S RELIEF FUND	BENEFITS PAID
9-40	110,427	2,209	2,749.28	2,888.25		1,591.45
0-41	109,401	2,188	2,162.88	2,105.57		2,117.76
-42	108,497	2,170	2,072.40	2,094.48		2,729.76
-43	115,192	2,304	2,227.84	2,227.15		2,856.72
-44	115,989	2,320	2,301.41	2,289.78		2,560.34
-45	123,046	2,461	1,359.04	971.19		2,125.17
-46	125,288	2,506	1,879.60	2,092.22		2,356.92
-47	155,081	3,102	2,795.03	2,888.84		3,041.71
-48	171,568	3,431	3,256.02	3,356.02		3,161.64
-49	204,713	4,094	4,000.00	4,021.30		4,066.02
-50	212,156	4,243	4,321.37	4,199.27		5,168.28
-51	222,847	4,457	4,039.53	4,392.41		5,675.49
-52	242,998	4,860	4,819.63	4,819.63		7,631.89
-53	255,652	5,113	5,524.41	5,103.12 2%		8,206.01
-54	272,627	5,453	5,390.14	5,390.14 ↑		10,048.62
-55	303,601	6,072	5,532.98	5,985.91 ↓		13,732.81
-56	309,366	6,187	5,000.00	14,977.72 5%		16,753.44
-57	333,460	6,669	-	15,854.25		23,166.95
-58	353,264	7,065	-	16,406.33		13,838.99
-59	397,271	7,945	500.00	19,246.37	51,822.89	19,642.51
-60	431,934	8,639	5,000.00	23,506.61	4,420.69	26,117.76
-61	496,024	9,920	1,062.60	33,659.74	4,198.37	33,841.41
-62	506,925	10,139	4,543.05	23,426.29	3,964.62	35,967.35
-63	536,215	10,724	7,000.30	32,355.85	9,084.76	39,043.16
-64	571,476	11,430	5,000.00	32,892.23	4,507.75	41,265.81
-65	594,026	11,881	3,000.00	46,781.94	3,933.56	49,224.83
-66	645,047	12,901	20,300.00	32,617.03	4,507.24	59,623.81
-67	694,166	13,883	20,741.49	40,101.43	4,385.85	61,542.57
-68	764,000	15,280	17,069.38	56,269.25	3,777.26	67,132.46
-69	761,007	15,220	25,000.00	44,985.63	4,689.85	84,584.60
-70	879,003	17,580	-	30,913.31	5,299.06	85,718.44
-71	959,553	19,191	10,687.25	102,810.13	5,242.71	96,401.90
-72	1,044,138	20,883	51,000.00	55,933.70	5,971.61	105,575.46
-73	1,083,079	21,662	52,250.00	56,232.71	7,385.11	106,609.72
-74	1,252,181	25,044	56,100.00	69,046.23	7,818.99	120,861.62
-75	1,337,736	26,754	71,920.41	70,951.62	9,126.02	139,180.35
-76	1,376,636	27,533	50,829.60	89,794.62	8,646.49	137,287.01
	18,175,644	363,513	461,434.74	962,578.47	148,782.83	1,440,450.74

(1) The figures in this colu are total Fire Dept. payrolls for fiscal years listed. These payrolls include some personnel not covered by the Firemen's Pension Fund and therefore, cannot be used to compute figures shown in Column 4. Column 4 figures are actual contributions deposited into the Firemen's Trust Fund taken from financial records and audit reports of the City of Asheville.

(2) Firemen covered by the Asheville Firemen's Pension Fund contributed 2% of their gross pay until FY '55 when changes in the Pension Law raised that figure to 5%.

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Attachment # I

Sec. 2. All laws and clauses of laws in conflict with this Act are hereby repealed.

Sec. 3. This Act shall be in full force and effect on and after July 1, 1959.

In the General Assembly read three times and ratified, this the 4th day of June, 1959.

H. B. 994 CHAPTER 759

AN ACT TO AMEND G. S. 118-7 RELATING TO THE DISBURSEMENT OF FUNDS BY TRUSTEES OF THE FIREMEN'S RELIEF FUND OF THE CITY OF ASHEVILLE IN BUNCOMBE COUNTY.

The General Assembly of North Carolina do enact:

Section 1. G. S. 118-7, as the same appears in Replacement Volume 3B of the General Statutes, is hereby amended by adding at the end of said Section a proviso which shall read as follows:

"Provided, that the board of trustees duly appointed under G. S. 118-6 shall be required to pay over to the Asheville Firemen's Pension and Disability Fund on July 1st of each year all sums entrusted to said trustees in excess of the sum of ten thousand dollars ($10,000.00)."

Sec. 2. All laws and clauses of laws in conflict with this Act are hereby repealed.

Sec. 3. This Act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 4th day of June, 1959.

H. B. 1012 CHAPTER 760

AN ACT TO AMEND G. S. 7-70 RELATING TO THE TERMS OF SUPERIOR COURT IN PERQUIMANS COUNTY.

The General Assembly of North Carolina do enact:

Section 1. That portion of G. S. 7-70, as the same appears in the 1957 Cumulative Supplement to Volume 1B of the General Statutes, which fixes the terms of Superior Court to be held in Perquimans County is hereby amended to read as follows:

"Perquimans—The fifth Monday before the first Monday in March to continue one week for the trial of civil cases only; the first Monday after the first Monday in March to continue one week for the trial of civil cases only; the sixth Monday after the first Monday in March; the eighth Monday after the first Monday in September."

Sec. 2. That portion of G. S. 7-70, as the same appears in the 1957 Cumulative Supplement to Volume 1B of the General Statutes, which authorizes the Chief Justice to assign the judge holding the courts of the first judicial district to hold terms of court on certain specified weeks is hereby amended by deleting from line four thereof the words "the first Monday after the first Monday in March" and inserting in lieu thereof the words "the fourth Monday before the first Monday in March".

ASHEVILLE FIREMEN'S PENSION AND DISABILITY FUND
1959 - 1971

RECEIPTS		DISBURSEMENTS	
1959 Balance on Hand	$ 34,710.13	1959-1971 Pension Paid	$700,106.61
1959-1971 City Contribution	119,904.27	1959-1971 Custodian Bond	126.69
1959-1971 Firemen's Contribution	519,566.01		$700,233.30
1959-1971 Interest	31,422.93		
Investment N.C. National Bank	83.33		
Proceeds from U.S. Bond Matured	50,538.71		
	756,225.38		
Minus 1970 City Take Back	-12,598.57		
	$743,626.81		

1959-1971 Receipts without adding in N.C. Firemen's Relief Fund	$743,628.81
1959-1971 Total Disbursements	700,233.30
Balance	$ 43,393.51

1971 Statement of Receipts and Disbursements show a balance of $12,419.19. The difference in these totals can be explained by the fiscal and calendar year-end totals.

Contribution figures are from Attachment 1, using the Fiscal years 58-59 through 70-71. Attachment 1 came from a City Managers report to the council in 1977. Figures for Balance on Hand, Interest, U.S. Bonds and Custodian Bond came from Statement of Receipts and Disbursements, Firemen's Pension and Disability Fund, which are calendar year totals from 1959-1971. Obviously the year-end total would not match. Consquently, we used 1959-1971 yearly totals to show that the N.C. Firemen's Relief Fund money was never deposited into the Asheville Firemen's Pension and Disability Fund. Total relief fund monies received by the city during 1959-1971 came to $109,834.61. Had this money been placed into the pension fund the balance would have been in excess of $150,000.00.

Mayor Bissette said the City Manager is presently looking into these concerns and would have a report to members of Council very soon. He said it is the Council's desire to treat all employees fairly.

Upon inquiry of Councilman Boland, Mr. Anders said fire department personnel are requesting an 18% increase in salary which would be comparable to other cities in North Carolina.

Council instructed the City Manager to work up a position paper on the concerns expressed by Mr. Anders.

Councilman Michalove moved to budget the contribution to the Chamber of Commerce in the amount of $80,447 ($37,542 for tourist and promotion and $42,905 for economic development) and $100,000 to be budgeted for a special Economic Development Program contingent upon the funds not being expended until detail plans, budgets, and contracts are approved by Council. Further, that $26,834 be budgeted for minority business development contingent upon the funds not being expended until agencies working in this field come up with detailed plans, budgets, and contracts which is to be approved by Council. This motion was seconded by Councilman Boland and carried unanimously.

Councilman Tisdale requested a report from the City Manager on all funds being spent on economic development in the City of Asheville.

Councilman Boland said he felt the $100,000 investment to economic development through the Economic Development Summit would return many dollars to the City of Asheville. He also noted that the City would have representatives on the Economic Development Council to carry forth specific plans.

Councilman Michalove's motion carried unanimously.

Ralph Bishop spoke in opposition to the City of Asheville budget for 1987-88 and the appropriation for economic development as indicated by Councilman Michalove.

Mayor Bissette closed the public hearing at 5:08 p.m.

III. OLD BUSINESS

A. SECOND READING OF ORDINANCE NO. 1629 REZONING PROPERTY ON VANDERBILT ROAD FROM R-3 RESIDENTIAL DISTRICT TO R-1 RESIDENTIAL DISTRICT)

Mayor Bissette said the Asheville Planning & Zoning Commission at a meeting held March 25, 1987, discussed the request of Asheville City Council that consideration be given to rezoning certain lots on Vanderbilt Road from R-3 Residential District to R-1 Residential District. After review and discussion, the Commission voted to recommend to the City Council that Lots 58½, 56½, 56¼, and a portion of lots 54 and 53½, Sheet 4, Ward 7, be rezoned from R-3 Residential District to R-1 Residential District.

Councilman Tisdale requested that the following letter be made a part of the Council minutes:

May 26, 1987

The Honorable George Tisdale
Councilmember, City of Asheville
City Hall
Asheville, NC 28807

Dear Mr. Tisdale:

On behalf of the Biltmore Forest Town Board and the people of Biltmore Forest, I would like to thank you again for your vote to rezone the area in question on North Vanderbilt from R3 to R1. This will allow a much less dense development and more compatible use for this area that is so important to our Town.

At a City Council meeting in the not too distant future, representatives of the Town would like to formally request that the area in question be made a part of Biltmore Forest's jurisdiction. This request is based on a part history of cooperation on such matters between the municipalities in which on two occasions the City has received either land area or legal jurisdiction from the Town, in order to facilitate Asheville's purposes in planning and tax base development. In that spirit we hope that you will favorably receive our request in order to help us further our purposes of neighborhood protection.

Again, it was my pleasure to appear before the Council at your request.

Sincerely,

Robert R. Musselwhite
Town Administrator/Manager

cc: The Asheville City Council
Mayor Canie B. Smith
Commissioner Robbie W. Hambright
Commissioner E. Glenn Kelly
Commissioner Robert B. Armstrong
O. E. Starnes, Jr., Town Counsel
Douglas O. Bean, City Manager
William F. Wolcott, Jr., Associate City Manager
Verl R. Emrick, Jr., Director of Planning

Claude Smith, resident of 296 Vanderbilt Road and owner of Lot 56½, again spoke in opposition to the rezoning.

J. D. Anderson, Jr., acting on behalf of his mother, Maude Anderson, owner of property in question, said he felt there was a lot of controversy over the services received from Biltmore Forest and the City of Asheville.

Mayor Bissette said a study was conducted relative to the services provided to the residents on Vanderbilt Road under consideration. He said the study revealed the following; the City of Asheville provides garbage collection and fire and police protection to the property owners on Vanderbilt Road; fire protection is provided to the property owners; however, since January 1984 to

the present, no fire calls have been received from the three property owners. Police protection is provided by the City of Asheville by a mutual aid agreement between the Asheville and Biltmore Forest police; if a call comes in from one of the property owners, an Asheville patrol car will be dispatched; however, if a Biltmore Forest patrol car is in the area and hears the call, the officer will proceed to the resident and remain there until the Asheville police officer arrives; the cooperative arrangement also applies to calls on Hendersonville Road; the way the boundary lines are drawn, the property owners pay property taxes to Biltmore Forest and Asheville; and a small strip of land in front of 294, 296, and 300 Vanderbilt Road is located in Biltmore Forest.

He said an inspection of the property at 479 Hendersonville Road, known as the Cooper House Builder of Custom Cabinets, was made to determine if the use of the property was in compliance with the zoning. This property does abut the property of Claude Smith on Vanderbilt Road; however, the Cooper Custom Cabinet business is located in a Commercial Highway zoned district, which does permit a retail and cabinetmaking business. The Cooper property has natural green buffer, and the property owner agreed to install in the rear of his cabinet shop an 8 foot high section wooden fence along the length of his building before receiving his certificate of compliance.

He said it is the opinion of Bill Slawter, City Attorney, that the rezoning of the property on Vanderbilt Road would not be considered as spot zoning. He said the property owners on Vanderbilt Road were contacted by the Planning Department in reference to the rezoning. Bob Musselwhite, Town Manager of Biltmore Forest, was also contacted and informed that the rezoning issue would be on the June 9, City Council agenda.

Mayor Bissette noted that the rezoning would not adversely affect the property owners in question and that services would be provided to these residents from the City of Asheville.

Bob Musselwhite, Town Manager of Biltmore Forest, said they are attempting to abate the problem as to the jurisdiction of the Town of Biltmore Forest and the City of Asheville in this particular area. He said he felt the rezoning would be beneficial to both sides in order to protect the property; however, Biltmore Forest is still interested in having the boundary lines change to include this property in the Town of Biltmore Forest.

Charles Grimes, of 303 Vanderbilt Road, spoke in support of the rezoning of the properties in question.

Councilman Michalove left the meeting, unexcused, in order for all to carry an "aye" vote for him.

On a roll call vote of 6-0, Ordinance No. 1629 passed on second reading.

B. RESOLUTION NO. 87-101 - CONTINUATION OF PUBLIC HEARING RELATIVE TO CLOSING CERTAIN ALLEYS AND PORTIONS OF AN ALLEY IN THE BLOCK BOUNDED ON THE NORTH BY WALNUT STREET, ON THE EAST BY RANKIN AVENUE, ON THE SOUTH BY COLLEGE STREET, AND ON THE WEST BY HAYWOOD STREET

Mayor Bissette said the City Council deems that it is in the best interest of the City, to permanently close the above-named alleys. Said alleys are under the sole and exclusive authority of the City of Asheville and are not

under the authority and control of the North Carolina Department of Transportation. The closing will not be either detrimental to or contrary to the public interest or the property rights of any individual in the vicinity of the alleys, and the closing will not deprive any individual reasonable means of ingress and egress to his property. He said action on this matter was postponed from the June 2, 1987, meeting.

Mayor Bissette said the City staff and engineers had worked with Mr. Jim Daniels, with Daniels Business Services, to work out a solution to allow trucks to back up to his loading docks and they appear to have reached a satisfactory arrangement. He said Mr. Daniels has agreed to construct a new loading dock to allow trucks to angle into his property rather than backing straight back from the alley they now use to make contact with the existing loading dock which is parallel to Rankin Avenue. He said engineers have also worked out an agreement whereby the alley behind the Bon Marche building and Revco Drugstore can be redesigned and the entrances widened to solve the problems of tractor trailers serving the rear of their businesses.

John Powell, Attorney representing Bon Marche, asked if tractor trailer trucks could make a turn off Haywood from Walnut Street.

It was noted that Walnut Street may have to be made a one-way street.

Councilman Tisdale expressed a concern relative to closing the alley and tractor trailers not being able to use the alley behind these businesses and the City being sued for the loss of their businesses.

Mr. Powell indicated that the Laughrin heirs do not oppose the construction of the parking garage but would object if it was impossible to get a large tractor trailer into the loading dock in the rear of their businesses.

David Swann, with Wachovia Bank, spoke in favor of the parking garage. He said parking is very much needed in the downtown area.

Roy Birchfield, with Penney's Department Store, spoke in favor of the parking garage. He encouraged members of Council to work with the property owners around the proposed parking garage to accommodate their needs.

W. C. Johnson spoke in support of the parking garage.

Chuck Tessier also spoke in support of the parking deck.

Ralph Bishop spoke in opposition to the parking garage in the downtown area.

Councilman Bratton spoke in support of the parking garage and also left the meeting at 5:55 p.m., unexcused, and ordered that her vote be carried as an "aye" vote on all following issues.

Debbie Cash spoke in favor of the parking garage but expressed concern about the large tractor trailers not being able to service the downtown businesses.

Lou Millan, of T. S. Morrison Company, spoke in support of the parking garage.

Sam Davis, with Southeastern Historic Developers, developers for the Wall Street project, said the need for parking in the downtown area is essential if retail businesses are to thrive. He commended the City staff on solving engineering problems with adjoining property owners.

Don Martell, owner of the Penney's building, spoke in favor of the parking deck.

Ben Kanner, owner of the Flat Iron Building, said he felt the proposed parking deck is very much needed in the downtown area.

Councilman Price moved for the adoption of Resolution No. 87-101 closing the alleys in question. This motion was seconded by Councilman Boland.

Upon inquiry of Councilman Tisdale, Corporation Counsel Slawter said he did not feel the City would be subject to a lawsuit, under the current arrangements relative to the closing of the alleys.

Mr. Powell said if his client could use the alley off Walnut to get to their loading dock in the rear of their building, they would be satisfied.

Councilman Price's motion carried unanimously on a 6-0 vote.

IV. NEW BUSINESS

A. RESOLUTION 87-102 - RESOLUTION STATING THE INTENT OF THE CITY OF ASHEVILLE TO CONSIDER THE ANNEXATION OF AN AREA TO THE SOUTH OF THE EXISTING CORPORATE LIMITS, AND FIXING THE DATE OF A PUBLIC HEARING ON THE QUESTION OF ANNEXATION FOR JULY 28, 1987

Mayor Bissette said members of Council were previously furnished copies of the Resolution and it would not be read in its entirety. He said any individual requesting a copy of the resolution would be furnished one at no cost.

Verl Emrick, Planning Director, outlined the area proposed for annexation. Mr. Emrick said the next step in annexation would be the adoption of the plan for services for the area, hearings held within the communities and a public hearing before the Asheville City Council. He said the ordinance if adopted on August 1, 1987 would be effective one year after adoption, or August 1, 1988.

Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 87-102 was unanimously adopted.

Councilman Boland moved to amend Resolution 87-102 to state that the public hearing would be held at the Asheville Civic Center or another appropriately advertised location. This motion was seconded by Councilman Price and carried unanimously.

Complete text of Resolution No. 87-102 will be found in Resolution Book No. 16 at page 361.

B. RESOLUTION 87-103 - RESOLUTION STATING THAT THE INTENT OF THE CITY OF ASHEVILLE TO CONSIDER THE ANNEXATION OF AN AREA LYING TO THE WEST OF HENDERSONVILLE ROAD, AND FIXING THE DATE OF A PUBLIC HEARING ON THE QUESTION OF ANNEXATION FOR JULY 28, 1987

Mayor Bissette said members of Council were previously furnished copies of the Resolution and it would not be read in its entirety. He said any individual requesting a copy of the resolution would be furnished one at no cost.

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Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 87-103 was unanimously adopted.

Councilman Boland moved to amend Resolution 87-103 to state that the public hearing would be held at the Asheville Civic Center or another appropriately advertised location. This motion was seconded by Councilman Price and carried unanimously.

Complete text of Resolution No. 87-103 will be found in Resolution Book No. 16 at page 362.

C. RESOLUTION NO. 87-104 - RESOLUTION STATING THE INTENT OF THE CITY OF ASHEVILLE TO CONSIDER THE ANNEXATION OF AN AREA TO THE WEST OF THE EXISTING CORPORATE LIMITS, AND FIXING THE DATE OF A PUBLIC HEARING ON THE QUESTION OF ANNEXATION FOR JULY 28, 1987

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety. He said any individual requesting a copy of the resolution would be furnished one at no cost.

Verl Emrick, Planning Director, outlined the area proposed for annexation. Mr. Emrick said the next step in annexation would be the adoption of the plan for services for the area, hearings held within the communities and a public hearing before the Asheville City Council. He said the ordinance if adopted on August 1, 1987 would be effective one year after adoption, or August 1, 1988.

Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 87-104 was unanimously adopted.

Councilman Boland moved to amend Resolution 87-104 to state that the public hearing would be held at the Asheville Civic Center or another appropriately advertised location. This motion was seconded by Councilman Price and carried unanimously.

Complete text of Resolution No. 87-104 will be found in Resolution Book No. 16 at page 363.

D. RESOLUTION 87-105 - RESOLUTION STATING THE INTENT OF THE CITY OF ASHEVILLE TO CONSIDER THE ANNEXATION OF A PORTION OF THE AREA GENERALLY KNOWN AS THE OTEEN AREA, AND FIXING THE DATE OF A PUBLIC HEARING ON THE QUESTION OF ANNEXATION FOR JULY 28, 1987

Mayor Bissette said members of Council were previously furnished copies of the Resolution and it would not be read in its entirety. He said any individual requesting a copy of the resolution would be furnished one at no cost.

Verl Emrick, Planning Director, outlined the area proposed for annexation. Mr. Emrick said the next step in annexation would be the adoption of the plan for services for the area, hearings held within the communities and a public hearing before the Asheville City Council. He said the ordinance if adopted on August 1, 1987 would be effective one year after adoption, or August 1, 1988.

Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 87-105 was unanimously adopted.

Councilman Boland moved to amend Resolution 87-105 to state that the public hearing would be held at the Asheville Civic Center or another appropriately advertised location. This motion was seconded by Councilman Price and carried unanimously.

Complete text of Resolution No. 87-105 will be found in Resolution Book No. 16 at page 364.

E. RESOLUTION 87-106 - RESOLUTION STATING THE INTENT OF THE CITY OF ASHEVILLE TO CONSIDER THE ANNEXATION OF A PORTION OF THE AREA GENERALLY KNOWN AS THE HAW CREEK AREA, AND FIXING THE DATE OF A PUBLIC HEARING ON THE QUESTION OF ANNEXATION FOR JULY 28, 1987

Mayor Bissette said members of Council were previously furnished copies of the Resolution and it would not be read in its entirety. He said any individual requesting a copy of the resolution would be furnished one at no cost.

Verl Emrick, Planning Director, outlined the area proposed for annexation. Mr. Emrick said the next step in annexation would be the adoption of the plan for services for the area, hearings held within the communities and a public hearing before the Asheville City Council. He said the ordinance if adopted on effective August 1, 1987 would be effective one year after adoption, or August 1, 1988.

Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 87-106 was unanimously adopted.

Councilman Boland moved to amend Resolution 87-106 to state that the public hearing would be held at the Asheville Civic Center or another appropriately advertised location. This motion was seconded by Councilman Price and carried unanimously.

Complete text of Resolution No. 87-106 will be found in Resolution Book No. 16 at page 365.

Harry Burnette, at 776 Haw Creek Road, spoke in opposition to the annexation in the Haw Creek area stating that this annexation would be detrimental to the Haw Creek Fire Department.

Mayor Bissette said all concerns of residents would be considered during the public hearing process.

V. CONSENT AGENDA

A. SCHEDULING OF PUBLIC HEARING RELATIVE TO REZONING PROPERTY LOCATED ON FAIRWAY DRIVE, KNOWN AS THE CARMELITE PROPERTY FOR JUNE 23, 1987

B. SCHEDULING OF PUBLIC HEARING RELATIVE TO AMENDING ORDINANCE NO. 322 (ASHEVILLE ZONING ORDINANCE) TO INCLUDE PROVISION FOR AMORTIZATION OF NONCONFORMING SIGNS FOR JUNE 30, 1987

C. SCHEDULING PUBLIC HEARING RELATIVE TO THE SITE PLAN OF THE PROPOSED LEISURE RIDGE CONDOMINIUMS TO BE LOCATED ON FAIRVIEW ROAD AT VISTA FOR JUNE 30, 1987

D. SCHEDULING OF PUBLIC HEARING RELATIVE TO REZONING PROPERTY LOCATED ON HAYWOOD ROAD AND NEVADA AVENUE, MR. NICK APOSTOLOPOULOS, PETITIONER FOR JUNE 30, 1987

E. ANNOUNCEMENT OF REAPPOINTMENT OF MRS. ANNETTE COLEMAN AS A COMMISSIONER FOR THE ASHEVILLE HOUSING AUTHORITY

Mike Summey requested that members of Council delay scheduling the public hearing relative to nonconforming signs at this time. He said he felt the present sign ordinance provides a grandfather clause for nonconforming signs and any additional amendments are not needed. He also indicated that the Supreme Court, this afternoon, made a decision that municipalities cannot take private property for public use and felt that decision would have an impact on the amortization of nonconforming signs.

Upon motion of Councilman Price, seconded by Councilman Boland, the consent agenda was unanimously approved.

COUNCILMAN PRICE REQUESTS RELATIVE TO TOWING VEHICLES FOR IMPROPERLY PARKED

Councilman Price requested that the City Manager look into the towing of vehicles where they are improperly parked.

RALPH BISHOP - LOTTERY SALES

Ralph Bishop again spoke to members of Council relative to lottery sales in the City of Asheville.

ADJOURNMENT

Mayor Bissette adjourned the meeting at 6:50 p.m.

Mayor

City Clerk

Tuesday - June 16, 1987 - 4:00 p.m.

Regular Meeting

Present: Vice-Mayor Mary Lloyd Frank, Presiding; Councilmen Wilhelmina Bratton, Walter R. Boland; Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Mayor W. Louis Bissette (Death of Mother-in-Law)

INVOCATION

The invocation was given by Councilman Michalove.

APPROVAL OF THE MINUTES - JUNE 9, 1987 MEETING

Vice-Mayor Frank announced the approval of the minutes of the June 9, 1987, meeting with several noted corrections.

I. PROCLAMATION

II. PUBLIC HEARINGS

A. PUBLIC HEARING RELATIVE TO THE SITE PLAN OF THE PROPOSED EXPANSION OF STOWAWAY WAREHOUSES ON WILMINGTON ROAD

Vice-Mayor Frank said the Planning & Zoning Commission has recommended to the City Council that the site plan of the proposed expansion of Stowaway Warehouses located on Wilmington Road be approved subject to the following: (1) placement of fire hydrant near the entrance; (2) buffering; and (3) compliance with Erosion Control Ordinance. The site plan was prepared by J. Bertram King, Architect, for Burleson Construction Company, Johnson City, Tennessee, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance.

Vice-Mayor Frank opened the public hearing at 4:10 p.m.

The City Manager presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said this project is an expansion of an existing development on Wilmington Road. He said six additional warehouses consisting of 2,000 sq. ft. each would be placed on the south end of the property toward Haywood Road. He indicated that members of Council had requested buffering along the property line adjacent to the T. C. Smith property on Haywood Road and tree plantings fronting the I-240 connector. He said they also requested plantings on the steep 1:1 slope. He said there would be no additional signage on the property.

Charles Allen, Developer, said his company would be willing to work with the City staff and members of Council for a satisfactory landscaping plan in order to deal with appearance, the steepness of the slope, and erosion control.

Vice-Mayor Frank closed the public hearing at 4:15 p.m

Councilman Price moved to approve the site plan of the proposed expansion of the Stowaway Warehouses on Wilmington Road subject to the conditions outlined by the Planning & Zoning Commission and, further, that the developer submit a landscaping plan acceptable to the City staff and reviewed by the Asheville City Council. This motion was seconded by Councilman Boland and carried unanimously.

B. PUBLIC HEARING RELATIVE TO THE SITE PLAN OF THE PROPOSED CHEROKEE PLACE SHOPPING CENTER TO BE LOCATED ON U.S. 74 - FAIRVIEW ROAD

Vice-Mayor Frank said the Planning & Zoning Commission has recommended to the City Council that the site plan of the proposed Cherokee Place Shopping Center to be located on U.S. 74 - Fairview Road be approved subject to (1) resolving sewer line connection; (2) buffer to be located on Carolina Power and Light Co. property; and (3) compliance with the Erosion Control Ordinance. The site plan was prepared by Carroll Hughes, Spaceplan, for Mishu and Tatum Corporation, Knoxville, Tennessee, Developer, and submitted in accordance with the Asheville Zoning Ordinance.

Vice-Mayor Frank opened the public hearing at 4:20 p.m.

Verl Emrick, Director of Planning, said he had conveyed Council's concerns to Mr. Hughes relative to continuing the public hearing for two weeks. He said Mr. Hughes has requested that Council continue with the public hearing today and requested approval of the project contingent upon the sewer problems being resolved.

Jim Gerard, with M & M Development Company from Knoxville, Tennessee, told members of Council that prior to obtaining an option to purchase the property, the Water and Sewer Department indicated that there was sufficient water and sewer available to service the proposed site. He said he had recently consumated the sale at $1.2 million. He said it was only in the last couple of weeks that he was informed that the sewer facilities were not sufficient to service the project but in all likelihood some arrangement could be worked out due to possible future curtailments of developments in that area. He said he was also given an alternative to tie into an existing sewer at the golf course. He said his company would be willing to participate economically with the new sewer line even though this will place a financial burden on the project. He requested approval of the site plan due to a tight construction schedule. He said this proposed project would benefit the City of Asheville by providing 250 construction positions, 400 permanent positions, property taxes in the amount of $45,000, water service fees in the amount of $10,000 per year with a total development cost of over $5,000,000. He said he was obligated, under leases, to open the shopping center in April. He requested that Council proceed with approval contingent upon the sewer problems being resolved in a satisfactory arrangement by the developer and the City.

Verl Emrick, Director of Planning, said the proposed project is located across the intersection from the existing River Ridge Shopping Center. He said the project would consist of 107,000 sq. ft. which would include a Roses, Bi-Lo, Revco, Burger King, and other retail stores.

Councilman Price requested that the developer participate financially and install sidewalks along thoroughfares in front of the development.

Upon inquiry of members of Council, Mr. Gerard said his company would risk participating with the City in the new sewer line in the amount of $50,000 to $60,000 and would be receptive to working with the City in relation to sidewalks on the thoroughfares even though this was not planned for the development, not required by the ordinance, and no funds were budgeted for this expenditure.

Carroll Hughes, Architect for the project, answered questions from members of Council relative to the problems relating to sewer facilities.

Councilman Tisdale requested that the following letter be included in the minutes relative to the developer being informed that the 27" sewer line was not completely full and could be used for this project:

May 13, 1987

Spaceplan
39 Patton Avenue
Asheville, NC 28801

Attention: G. Carroll Hughes, AIA
Project Architect

Re: Cherokee Place Shopping Center (Fairview Road)
M & M Development Corporation

Dear Mr. Hughes,

As per your letter of May 8, 1987 we are forwarding the following letter regarding the availability of water and sewer. It is our understanding that the project will generate approximately 19,800 GPD of water demand and wastewater flows.

WATER AVAILABILITY

Attached, please find a copy of our flow tests conducted on May 12, 1987, and an attached flow chart. It is our opinion that we have sufficient water supply to meet this domestic demand. Please be advised that the flow tests are for information purposes only and further analysis may be necessary regarding sprinkler demand.

SEWER AVAILABILITY

As per previous discussions with yourself, George Jensen, and other representatives of the developer, we have concerns about a direct connection into the existing 12" sanitary sewer system that immediately serves the proposed project site on the south side of the Swannanoa River. This sewer is running in a surcharged condition on almost a continual basis. We are presently evaluating the condition of this sanitary sewer and what the costs would be of a relief sewer.

However, we have done some preliminary flow monitoring on the 27" sanitary interceptor that runs on the north side of U.S. 74 through the Buncombe County Golf Course. Based upon our monitoring there appears to be capacity in this line to accept the wastewater from the project.

As such if the problems in the 12" line cannot be resolved then we would recommend that a direct connection be made into the 27" interceptor.

This letter is only to advise of the availability of water service and wastewater collection in the vicinity of the project site. The developer should be advised to follow the appropriate procedures of the Asheville-Buncombe Water Authority and the Metropolitan Sewer District, and the City of Asheville with respect to the project.

Very Truly Yours,

Paul R. Gilewicz, P.E.
Engineering Division Manager

PRG/mm

Enc.

xc: Harold Huff
Verl Emrick
Tom Tarrant
Lane Roberts
William Mull

Paul Gilewicz, with the City Engineering Department, said after further investigation, the 27" line is no longer available for further sewer taps.

Upon inquiry of Councilman Michalove, Mr. Gilewicz said it would take approximately six to eight months to write specifications bid, and construct the proposed sewer line.

Upon motion of Councilman Michalove, seconded by Councilman Price, Council went into recess at 5:10 p.m.

Council reconvened at 5:45 p.m.

Vice-Mayor Frank closed the public hearing at 5:48 p.m.

Councilman Price moved to approve the site plan of the proposed Cherokee Place Shopping Center to be located on U.S. 74 - Fairview Road contingent upon the recommendations of the Planning and Zoning Commission, and further that the developer participate in an amount up to $60,000 for sewer line improvements and $6,000 for sidewalk installations. Further, that the sidewalk installation be contingent upon North Carolina Department of Transportation approval, and that a perpetual easement be obtained from Carolina Power & Light Company by the developer for the area to be buffered. This motion was seconded by Councilman Tisdale and carried unanimously.

C. PUBLIC HEARING RELATIVE TO THE SITE PLAN OF THE PROPOSED EXPANSION OF MILKCO, INC. AT 220 DEAVERVIEW ROAD

Vice-Mayor Frank said the Planning & Zoning Commission has recommended to the City Council that the site plan of the proposed expansion of Milkco, Inc. at 220 Deaverview Road be approved subject to: 1) that access to the lower gravel parking area be intercepted with a perpendicular driveway a minimum of 50' off adjacent property line; and 2) compliance with the Erosion Control Ordinance. The site plan was prepared by Hampton, Hintz and Associates for J. Cole Construction Company, as submitted in accordance with the Asheville Zoning Ordinance.

Vice-Mayor Frank opened the public hearing at 5:50 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the project is to be an expansion of an existing building in the amount of 14,000 square feet. He said Planning and Zoning had recommended approval of the project subject to several conditions outlined by the Vice-Mayor.

Upon inquiry of Councilman Tisdale, Mr. Emrick said there had been no opposition expressed relative to the expansion of the project.

Vice-Mayor Frank closed the public hearing at 5:52 p.m.

Councilman Boland moved to approve the site plan of the proposed expansion of Milkco, Inc. at 220 Deaverview Road subject to the recommendations outlined by the Planning & Zoning Commission. This motion was seconded by Councilman Price and carried unanimously.

III. OLD BUSINESS

A. ORDINANCE NO. 1634 - AN ORDINANCE ADOPTING THE BUDGET AND FIXING THE TAX RATE OF THE CITY OF ASHEVILLE FOR THE FISCAL YEAR 1987-88

Vice-Mayor Frank said this ordinance would adopt the budget and fix the tax rate of the City of Asheville for Fiscal Year 1987-88 maintaining basic service levels and establishing a tax rate at 68 cents per 100 assessed valuation.

Vice-Mayor Frank said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Tisdale moved for adoption of Ordinance No. 1634. This motion was seconded by Councilman Michalove.

On a roll call vote of 6-0, Ordinance No. 1634 passed on first and final reading.

Complete text of Ordinance No. 1634 will be found in Ordinance Book No. 11 at Page 135-138.

B. RESOLUTION NO. 87-107 - RESOLUTION APPROVING THE EXECUTION OF MUNICIPAL FACILITIES LEASE AGREEMENT AND RELATED MATTERS FOR PROPERTIES FOR THE RANKIN AVENUE/WALL STREET PARKING GARAGES

Vice-Mayor Frank said this resolution will authorize the City Manager to execute the necessary documents for the leasing of properties to the Asheville-Buncombe Development Corporation for the construction of the Rankin Avenue and Wall Street Parking Garages.

Vice-Mayor Frank said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Tisdale, seconded by Councilman Price, Resolution No. 87-107 was unanimously adopted.

Complete text of Resolution No. 87-107 will be found in Resolution Book No. 16 at Page 366-368.

C. ORDINANCE NO. 1629 - THIRD READING OF ORDINANCE NO. 1629 - REZONING PROPERTY ON VANDERBILT ROAD FROM R-3 RESIDENTIAL DISTRICT TO R-1 RESIDENTIAL DISTRICT

Vice-Mayor Frank said the Asheville Planning & Zoning Commission at a meeting held Marck 25, 1987, discussed the request of Asheville City Council that consideration be given to rezoning certain lots on Vanderbilt Road from R-3 Residential District to R-1 Residential District. After review and discussion, the Commission voted to recommend to City Council that Lots 58 1/2, 56 1/2, 56 1/4, and a portion of Lots 54 and 53 1/2, Sheet 4, Ward 7, be rezoned from R-3 Residential District to R-1 Residential District. She said this ordinance was previously read on first and second readings and would not be reread in its entirety.

Claude Smith, of 296 Vanderbilt Road and owner of Lot 56 1/2, again spoke in opposition to the rezoning and the manner in which the rezoning was handled. He also requested that a fence be erected between his property and the adjacent cabinet shop, and that the cabinet shop be made to come into compliance with all zoning regulations.

Councilman Tisdale requested that the following letter be included as a part of the minutes:

June 10, 1987

The Honorable Louis Bissette
Mayor, City of Asheville
Asheville City Hall
Asheville, NC 28807

Dear Mayor Bissette:

In response to Councilwoman Price's question concerning prior contact with the property owners in question, I have enclosed a copy of a March 7, 1986 letter that was sent to the lot owners in question. In addition, I have made a further mailing to the neighborhood to bring them up to date on matters as they presently stand. Copies are enclosed.

Again, speaking for Mayor, Town Commission, and Biltmore Forest Residents, we appreciate your passage of the rezoning of this area on its second reading.

Sincerely,

Robert R. Musselwhite
Town Administrator

RRM/tmb

pc: Vice Mayor Frank
Councilman Boland
Councilman Tisdale
Councilwoman Bratton
Councilwoman Price
Councilman Michalove
Mayor Canie B. Smith
Commissioner Robbie W. Hambright
Commissioner E. Glenn Kelly
Commissioner Robert B. Armstrong
O. E. Starnes, Jr., Town Counsel
Douglas O. Bean, City Manager
William F. Wolcott, Jr., Associate City Manager
Charles Penny, Assistant City Manager
Verl R. Emrick, Jr., Director of Planning

Charles Grimes, of 303 Vanderbilt Road, spoke in support of rezoning the property to R-1 Residential District.

Francis Gilman, of 305 Vanderbilt Road, spoke in support of rezoning the property to R-1 Residential District.

On a roll call vote of 6-0, Ordinance No. 1629 passed on third and final reading.

Complete text of Ordinance No. 1629 will be found in Ordinance Book No. 11 at Page 130.

IV. NEW BUSINESS

A. ORDINANCE NO. 1635 - BUDGET ORDINANCE AMENDMENT TO APPROPRIATE FUNDS FOR STORM DRAINAGE IMPROVEMENTS ON SOUTH GROVE AND BLANTON STREETS

Vice-Mayor Frank said this budget ordinance will provide funds to install a 24" drainage pipe and junction boxes in the South Grove and Blanton Street area due to the failure of an existing 18" drainage pipe which has created a health and safety hazard to the residents. She said the project cost will be $40,000.00 which would be provided from land sale revenue received from the East Riverside Renewal Area.

Vice-Mayor Frank said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Bratton moved for the adoption of Ordinance No. 1635. This motion was seconded by Councilman Boland.

On a roll call vote of 5-1, Ordinance No. 1635 passed on first and final reading with Councilman Michalove voting "no".

Complete text of Ordinance No. 1635 will be found in Ordinance Book No. 11 at Page 139.

B. APPROVAL OF BIDS FOR DISPOSAL PARCELS IN THE EAST END/VALLEY STREET COMMUNITY IMPROVEMENT PROJECT

Vice-Mayor Frank said the Housing Authority has tentatively accepted the following bids for certain disposal parcels in the East End/Valley Street Community Improvement Project.

Parcel	Reuse	Price	Bid	Redeveloper
91	Residential	$7,500	$8,000	Quick
92	Residential	6,600	6,900	Cruell
93	Residential	6,500	6,751	R & R Associates
95	Residential	4,100	4,351	R & R Associates
96	Residential	4,300	4,600	WNC Habitat
100	Residential	5,700	5,951	R & R Associates

Vice-Mayor Frank said Disposal Parcels 93, 95, 96 and 100 of the East End/Valley Street Area are to be developed with single family homes for resale. The eventual purchasers of the completed homes will be able to obtain the Incentive Housing Subsidy. She said Disposal Parcels 91 and 92 are located in the East End/Valley Street Area and are residential lot sales for single family structures under the Incentive Housing Program.

Councilman Tisdale moved to approve the sale of the disposal parcels as recommended by the Housing Authority. This motion was seconded by Councilman Price and carried unanimously.

C. RESOLUTION NO. 87-108 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN ENCROACHMENT AGREEMENT WITH ACE APPLIANCE COMPANY, INC. AND B & W ENTERPRISES

Vice-Mayor Frank said Ace Appliance Company utilized a warehouse located at 110 Riverside Drive for storage of appliances. The loading dock access on the rear of the building is across private property, and the property owner desires to use the property for building purposes which will eliminate Ace Appliance Company access across this property. Ace Appliance Company has requested permission to encroach upon the right-of-way of Riverside Drive in order to construct a new loading dock. Investigations of the site by City personnel have indicated that this encroachment will not interfere with traffic flow.

Vice-Mayor Frank said members of Council were previously furnished copies of the resolution and the encroachment agreement and it would not be read in entirety.

Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 87-108 was unanimously adopted.

Complete text of Resolution No. 87-108 will be found in Resolution Book No. 16 at Page 369.

D. RESOLUTION NO. 87-109 - RESOLUTION ESTABLISHING POLICY REGARDING THE RATE TO BE CHARGED FOR SEWER MAINTENANCE SERVICE

Vice-Mayor Frank said this action would establish a sewer maintenance user fee as required by the Water Agreement. She said this action should generate revenue of approximately $1,588,000.00 annually with an average cost of approximately $4.20 per month to a residential customer.

Councilman Price noted that this action relative to the establishment of a sewer user fee is part of the Water Agreement. She said the amount of revenue that would be generated from the maintenance user fees would be equivalent to 9 1/2 cents on the tax rate.

Councilman Michalove noted that the maintenance charge would have been implemented one way or another, if not by the City, then the Metropolitan Sewerage District if the sewer lines had been turned over for maintenance to that agency. He also indicated that it is his understanding that the County is also establishing a new sewer user fee.

Upon motion of Councilman Boland, seconded by Councilman Michalove, Resolution No. 87-109 was unanimously adopted.

Complete text of Resolution No. 87-109 will be found in Resolution Book No. 16 at Page 370.

E. REPORT BY COUNCILMAN TISDALE - INTERGOVERNMENTAL SERVICES COMMITTEE

Councilman Tisdale noted that the Intergovernmental Services Committee met today and discussed the upcoming tax rate for the City of Asheville and the County of Buncombe; the increase in tipping fees by the County in the amount of 44% which would be an increase of $110,000.00 for the City totaling $360,000.00; the forming of an Economic Development Commission with the County participating on a contractural basis; and the Water Agreement, which he called a tax equity agreement.

Councilman Boland said during the Intergovernmental Services Committee meeting, a discussion was held relative to the County using 1 cent of their tax rate for economic development, and a discussion relative to school consolidation which would be a topic at their next meeting in July.

Councilman Tisdale and Councilman Boland said they felt the Intergovernmental Services Committee provides a relaxed, informal atmosphere for communication with the County of Buncombe and there were many advantages to keep the committee meeting on an ongoing basis.

REQUEST OF MONTFORD COMMUNITY CLUB RELATIVE TO ISSUANCE OF ABC PERMITS FOR TWO LOCATIONS IN THE MONTFORD AREA

Jim Cairnes, of 209 Cumberland Avenue and President of the Montford Community Club read the following petition.

June 8, 1987

Acoholic Beverage Control Board
Raleigh, North Carolina

We, the undersigned, residents of the Montford Historic District of Asheville, N.C., do hereby declare our total and unwavering opposition to the granting of a license/permit to sell alcoholic beverages at the Miller Cab Service/Miller Grocery, located at 102 Montford Ave., Asheville, N.C.

The Miller Cab Service/Grocery is located in a residential area of the Montford Historic District and is also located directly across the street

from the playground of the William Randolph Elementary School. This area has been declared a blighted, redevelopment area by the City of Asheville, has an approved redevelopment plan in place, and is awaiting final release of HUD monies to implement this plan. We consider the approval of a permit for this location as a further blighting influence on the neighborhood and a contradiction to the purpose of the redevelopment plan.

The applicant has operated a cab service in this location but we consider that he has not and is not operating a legitimate grocery store. We further question the wisdom of granting an alcoholic beverage permit to an applicant engaged in public transportation services. We also feel that the close proximity to the school playground would create an undesirable atmosphere for the children using the school playground.

We petition the Alcoholic Beverage Control Board to deny any permit/license for sale of alcoholic beverages by the applicant, Miller Cab Service/Grocery, 102 Montford Avenue., Asheville, N.C.

Mr. Cairnes also requested that the City of Asheville investigate as to whether this particular business was grandfathered under the zoning ordinance and when a grocery permit was issued to this location. He said he felt a grocery business would constitute a change in zoning in this area and this would not be a bona fide neighborhood grocery store. He also said the owner of the Miller Cab Company has been given numerous violations relative to litter. He said it is his understanding that the State ABC Board would be holding a hearing relative to the issuance of the ABC permit within the next two to three weeks.

A discussion was held relative to the requirement of the zoning ordinance that a location serving beer and wine license be 250' from any building. It was also noted that the State's requirement is that a location serving beer and wine be 50' from any school property.

Trudy Carey, 290 Montford Avenue, also requested Council's endorsement of the Montford Community Club's petition. She also requested that Council do anything in their power to deny a beer and wine license to a proposed grocery store at 235 Montford Avenue.

Dr. Gene Rainey, of 19 Reynolds Place, owner of property in the Montford Area and a member of the Montford Community Club, requested that Council pass a motion endorsing the Montford Community Club's petition in the denial of a permit for a beer and wine permit for 102 Montford and 235 Montford Avenue and that the City pursue any zoning violations.

Councilman Boland moved that the City Council of the City of Asheville hereby endorses and expresses its support for the petition of the Montford Community Club to the North Carolina Alcoholic Beverage Control Commission in opposition to applications pending before the Commission for issuance of ABC permits for locations 102 Montford Avenue and 235 Montford Avenue in the City of Asheville, and further that the City Manager is hereby directed to investigate the business operations at said locations to ensure compliance with applicable provisions of the Code of Ordinances of the City of Asheville, further that a copy of the motion be sent to the North Carolina Alcoholic Beverage Control Commission in Raleigh and to Mr. William D. Williams, Superintendent of District 10, the local State ABC Office. This motion was seconded by Councilman Price and carried unanimously.

Councilman Tisdale also requested that the Montford Community Club request the same action from the Asheville City School Board.

CLAIMS - JOANN NESMITH (WATER) - FRED EGGERTON (SANITATION) - FRED WHITTEMORE (SANITATION) - LOIS CHILLEBEAUX (STREETS) - LEWIS GREEN (DOWNTOWN DEVELOPMENT) - KEVIN SHAW (PARKS)

The City Manager presented claims received from Joann Nesmith, Fred Eggerton, Fred Whittemore, Lois Huillebeaux, Lewis Green and Kevin Shaw.

Vice-Mayor Frank referred the claims to the Corporation Counsel for investigation and recommendation.

ADJOURNMENT

Vice-Mayor Frank adjourned the meeting at 7:00 p.m.

MAYOR

CITY CLERK

Tuesday - June 23, 1987 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Walter R. Boland, Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Wilhelmina Bratton (broken foot)

INVOCATION

At the request of Councilman Tisdale, the audience stood for the pledge of allegience to the flag. The invocation was given by Councilman Tisdale.

APPROVAL OF THE MINUTES - JUNE 16, 1987 MEETING

1. Consideration was given to the approval of the minutes of the June 16, 1987, meeting with one minor correction.

I. PROCLAMATIONS

II. PUBLIC HEARINGS

A. PUBLIC HEARING RELATIVE TO REZONING PROPERTY LOCATED ON FAIRWAY DRIVE, KNOWN AS THE CARMELITE PROPERTY

ORDINANCE NO. 1636 - AN ORDINANCE AMENDING ORDINANCE 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED, REQUESTS TO CITY COUNCIL THAT COMMISSION CONSIDER REZONING PROPERTY ON FAIRWAY DRIVE (CARMELITE PROPERTY)

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held May 13, 1987, reviewed the requests of City Council that the Commission consider rezoning a portion of Lot 61, Sheet 15, Ward 8, from OI Office Institutional District to R-2 Residential District. The property is located on Fairway Drive and is known as the Carmelite property. After review and discussion, the Commission voted to recommend to City Council that a portion of Lot 61, Sheet 15, Ward 8, be rezoned from OI Office Institutional District to R-2 Residential District.

Mayor Bissette opened the public hearing at 4:15 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Asheville City Council had requested that the Planning and Zoning Commission consider rezoning a portion of Lot 61 from OI Office Institutional District to R-2 Residential District when a site plan for the Cloister Condominiums project was approved. He said the property on which the project would be built was split zoned. He said the Planning and Zoning Commission recommended the R-2 Residential District in order to have consistent zoning. He said this rezoning would have no effect on the proposed development as approved.

Mayor Bissette closed the public hearing at 4:17 p.m.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety. He said any individual requesting a copy of the ordinance would be furnished one at no cost.

Councilman Price moved for the adoption of Ordinance No. 1636. This motion was seconded by Councilman Michalove.

On a roll call vote of 6-0, Ordinance No. 1636 passed on first reading.

B. PUBLIC HEARING RELATIVE TO CLOSING A PORTION OF DALE STREET

RESOLUTION NO. 87-110 - RESOLUTION TO CLOSE A PORTION OF DALE STREET IN THE CITY OF ASHEVILLE, NORTH CAROLINA

Mayor Bissette said a petition has been filed by Christ Fellowship Church requesting that a portion of Dale Street be permanently closed to public use. Said portion is under the sole and exclusive authority and control of the City of Asheville and is not under the authority and control of the North Carolina Department of Transportation. The closing will not be either detrimental to or contrary to the public interest or the property rights of any individual owning property in the vicinity of the portion to be closed. The portion to be closed is described as "lots bordering the portion of Dale Street are Lots 11, 20½, and 247 of Ward 5, Sheet 214, and Lot 1 of Ward 5, Sheet 9 of the Buncombe County Tax Maps." A 20 foot utility easement shall be established along the existing sanitary sewer line crossing the above described property and Dale Street. In accordance with the North Carolina General Statutes, a public hearing is required before the street is closed.

Mayor Bissette opened the public hearing at 4:20 p.m.

The City Clerk presented the notice to the public, setting the time and date for the public hearing and the affidavit of publication.

Clark Brown, Director of Public Works, said the petitioner controls both sides of the property on the portion of Dale Street proposed to be closed.

Councilman Price suggested that if the resolution is adopted, that there be a provision that the Christ Fellowship Church construct a 50 foot cul-de-sac for emergency type vehicle use.

Robert Hyatt, of Dale Street, spoke in opposition to the closing. He also inquired as to why another ramp from Brevard Road could not be installed to this property rather than to close Dale Street.

Mayor Bissette informed Mr. Hyatt that the City of Asheville does not have authority to build a road over their property without first condemning the land.

Mr. Hyatt said he felt the closing of Dale Street would endanger the property rights of individuals on Dale Street.

Howard T. Watkins, of 45 Dale Street, also spoke in opposition to the closing of a portion of Dale Street.

Mayor Bissette noted that the Christ Fellowship Church was only requesting that the road be closed at their property line.

Mr. Watkins said he felt Dale Street should continue to remain open to Amboy Road.

Robert Hyatt offered the Christ Fellowship Church a 20 foot right-of-way on his property in order to keep Dale Street open.

Alan Bragwell, Pastor of the Christ Fellowship Church, said due to the topography of the land, the architect had requested that the building be constructed in the middle of Dale Street where it is proposed to be closed. He said the church proposes to erect a barricade at this location, then open a private road through to old Amboy Road. By the use of a map, Mr. Bragwell showed members of Council the location proposed to be closed.

Upon inquiry of members of Council, Mr. Bragwell said there would be no problem with the church installing a 50 foot cul-de-sac if required.

Mayor Bissette closed the public hearing at 4:38 p.m.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety. He said any individual requesting a copy of the resolution would be furnished one at no cost.

Councilman Price moved for the adoption of Resolution No. 87-110 with the provision that Christ Fellowship Church construct a 50 foot cul-de-sac to City standards that would then be dedicated to the City of Asheville. This motion was seconded by Vice-Mayor Frank and carried unanimously.

Complete text of Resolution No. 87-110 will be found in Resolution Book No. 16 at page 371 and 372.

III. OLD BUSINESS

Mayor Bissette said the following resolutions deal with approving the report of plans for extension of City services into several areas proposed for annexation. He said North Carolina General Statutes 160A-49 requires that the governing body approve a report of plans for an extension of City services at least 30 days prior to the date of the public hearing on the question of annexation which is scheduled for July 28, 1987.

Verl Emrick, Director of Planning, said this is the next step in concluding the annexation process. He said the plans for extension of these areas would be made a part of the resolution. He said the plan along with water and sewer maps would be available in the City Clerk's office for inspection by the public June 26, 1987.

Councilman Tisdale requested that the City Manager ask the County of Buncombe if they would like to review the plans for services for the proposed annexation areas. He also requested that the Planning staff meet with the various volunteer fire departments to go over the plans for services.

Mayor Bissette noted that the Planning staff would be holding community meetings relative to annexation on July 7th at the Haw Creek Elementary School, July 9th at Sand Hill Elementary School, and July 10th at T. C. Roberson High School.

Harry Burnette, of 776 Haw Creek Road, Chief for the Haw Creek Volunteer Fire Department, requested that members of Council attend the community meeting at the Haw Creek Elementary School to hear the residents' concerns regarding the Haw Creek Volunteer Fire Department and concerns that the area known as Chunns Cove will be without fire protection.

Upon inquiry of members of Council, Chief John Rukavina said North Carolina General Statutes provide that volunteer fire departments can provide fire protection coverage in newly annexed areas. He said a five year contract could be executed with the Haw Creek Fire Department to make up for lost revenues the fire department would experience by this annexation, or the City of Asheville could assume the indebtedness the Haw Creek Fire Department would have by annexation taking 80% of their revenue. He also addressed the concern of the Chunns Cove area which lies outside both the Asheville Fire Department and Haw Creek Fire Department districts. He said Haw Creek Volunteer Fire Department is presently providing service to the Chunns Cove area at no cost but a concern has been expressed as to what will happen after this annexation. Chief Rukavina suggested that members of Council bring this to the attention of the County Commissioners.

A. **RESOLUTION NO. 87-111**

RESOLUTION APPROVING THE REPORT OF PLANS FOR THE EXTENSION OF MUNICIPAL SERVICES INTO THE AREA TO THE SOUTH OF THE EXISTING CORPORATE LIMITS PROPOSED FOR ANNEXATION

Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 87-111 was unanimously adopted.

Complete text of Resolution No. 87-111 will be found in Resolution Book No. 16 at page 373.

B. **RESOLUTION NO. 87-112**

RESOLUTION APPROVING THE REPORT OF PLANS FOR THE EXTENSION OF MUNICIPAL SERVICES INTO THE AREA LYING TO THE WEST OF HENDERSONVILLE ROAD PROPOSED FOR ANNEXATION

Upon motion of Vice-Mayor Frank, seconded by Councilman Michalove, Resolution No. 87-112 was unanimously adopted.

Complete text of Resolution No. 87-112 will be found in Resolution Book No. 16 at page 374.

C. **RESOLUTION NO. 87-113**

RESOLUTION APPROVING THE REPORT OF PLANS FOR THE EXTENSION OF MUNICIPAL SERVICES INTO THE AREA TO THE WEST OF THE EXISTING CORPORATE LIMITS PROPOSED FOR ANNEXATION

Upon motion of Vice-Mayor Frank, seconded by Councilman Boland, Resolution No. 87-113 was unanimously adopted.

Complete text of Resolution No. 87-113 will be found in Resolution Book No. 16 at page 375.

D. RESOLUTION NO. 87-114

RESOLUTION APPROVING THE REPORT OF PLANS FOR THE EXTENSION OF MUNICIPAL SERVICES INTO A PORTION OF THE AREA GENERALLY KNOWN AS THE OTKEN AREA PROPOSED FOR ANNEXATION

Upon motion of Councilman Price, seconded by Councilman Michalove, Resolution No. 87-114 was unanimously approved.

Complete text of Resolution No. 87-114 will be found in Resolution Book No. 16 at page 376.

E. RESOLUTION NO. 87-115

RESOLUTION APPROVING THE REPORT OF PLANS FOR THE EXTENSION OF MUNICIPAL SERVICES INTO A PORTION OF THE AREA GENERALLY KNOWN AS THE HAW CREEK AREA PROPOSED FOR ANNEXATION

Upon motion of Councilman Boland, seconded by Vice-Mayor Frank, Resolution No. 87-115 was unanimously approved.

Complete text of Resolution No. 87-115 will be found in Resolution Book No. 16 at page 377.

IV. NEW BUSINESS

A. RESOLUTION NO. 87-116 - RESOLUTION AWARDING THE BIDS AND AUTHORIZING EXECUTION OF THE CONTRACTS FOR CONSTRUCTION OF THE WALL STREET AND RANKIN AVENUE PARKING DECKS

Mayor Bissette said on June 11, 1987, separate bids were received for the general work, electrical wiring and installation, plumbing and gas fittings and accessories, and heating, ventilating, air conditioning and accessories components for construction of the Wall Street and Rankin Avenue Parking Decks. He said three bids were not received for each of the electrical wiring and installations, plumbing and gas fittings and accessories, and heating, ventilating, air conditioning and accessories components for the project. He said the City, therefore, rebid those components and those second bids were received on June 22, 1987.

Mayor Bissette said members of Council were previously furnished copies of the Resolution and it would not be read. He said any individual requesting a copy of the resolution would be furnished one at no cost.

The City Manager presented the bid tabulations for the parking decks stating that the total bids for the two parking decks is $25,000 under estimates. He said the bids have been reviewed by the consultant, Enwright Associates, Inc. and Enwright recommends that the bids be awarded for the combined projects to the lowest responsible bidders as follows:

General Work	
Freeman and Wood Construction Company	$3,627,000
Plumbing and Gas Fittings and Accessories	
Easley Mechanical, Inc.	102,660
Heating, Ventilating, Air Conditioning and Accessories	
Asheville Heating and Cooling, Inc.	23,800
Electrical Wiring and Installations	
Starr Electrical Company, Inc.	269,200
TOTAL	$4,022,600

The City Manager noted that Dixie Construction Company submitted the low bid for the mechanical and electrical portions but would only accept if they were awarded the general contract.

The City Manager said revenue bonds would be sold beginning July 14 for financing of the parking decks.

Steve Warren, Attorney representing Dixie Construction Company, objected to the awarding of the contracts to Freeman and Wood Construction Company. He said his client based his opposition on the fact that Freeman and Wood Construction Company failed to fill in the blank for expected date of completion relative to the Rankin Avenue Parking Deck. He said Freeman and Wood Construction Company gave the City a completion date of 266 days after the bids were formally opened.

Mr. Warren said Dixie Construction Company presented a total bid of $3.8 million with a completion date on the Wall Street project of 210 days and 300 days for the Rankin Avenue Parking Deck. He said his client objects because the Freeman and Wood Construction Company bid does not comply with the Public Building Contractor's Statutes, North Carolina General Statutes 143-129. He said that statute specifically states that among other things, bidders must specify a time for completion. He said in requesting the bids the City had presented the bidders a form which specified that the Wall Street Parking Deck be completed within 210 days and the time for completion on the Rankin Avenue Parking Deck had been left blank for the bidder to fill in, however, the instructions were, relative to the Rankin Avenue Parking Deck, that time was of essence and the completion time would be a factor in consideration. He said his client would contend that the Freeman and Wood Construction Company bid did not comply with the statutes and therefore, would not constitute a valid bid. He said he felt his client is the lowest bidder because they submitted the lowest responsive bid.

Upon inquiry of Mr. Warren, the City Manager said Freeman and Wood Construction Company had given the City of Asheville a time of completion of 266 days during the same meeting in which the bids were opened.

The City Manager noted that in the AIA Instructions to Bidders there is a provision that the City has a right to waive informalities or irregularities on bids.

Mr. Warren said it would be his client's position that the statutes will not allow the City to waive any informalities or irregularities. He said modification of sealed bids are inadmissible, and Freeman and Wood did not have a valid bid under North Carolina General Statutues.

Upon inquiry of Ralph Bishop, Mayor Bissette said the parking decks would be constructed with revenue bonds.

Tommy Parker of 486 Windswept Drive Project Manager for Dixie Construction Company for the Wall Street Project, said when Dixie Construction Company was awarded the work on Wall Street they hired local people and spent local money. He said at first Dixie Construction Company had a contract with the Wall Street developers to construct the parking deck, therefore, Dixie Construction Company kept all the employees for that reason. He said the employees were never notified that the parking deck was being turned over to the City of Asheville for construction since Dixie Construction Company had a contract with the developer. He said they now feel they are losing construction of the parking deck for the second time. He said two contractors working in one particular area will be impossible.

Upon inquiry of Mr. Warren, Mayor Bissette said the contracts for the parking decks would be signed seven days after the award of bids.

After discussion, Vice-Mayor Frank moved for the adoption of Resolution No. 87-116. This motion was seconded by Councilman Price and carried unanimously.

Complete text of Resolution No. 87-116 will be found in Resolution Book No. 16 at page 377.

B. ORDINANCE NO 1637 - BUDGET ORDINANCE AMENDMENT FOR MATCHING FUNDS FOR FEDERAL GRANTS FOR HISTORIC RESOURCES COMMISSION

Mayor Bissette said the Historic Resources Commission has been awarded two federal survey and planning grants totaling $7,000. The Historic Resources Commission has Department and City Manager approval to contract with a consultant to develop design review guidelines for Biltmore Village and the Downtown and to write several National Register nominations. The grants have a cash match requirement of $6,000. This budget amendment will allocate that $6,000 cash match. The State Historic Preservation Office needs certification of the matching funds. He said this budget amendment will allow the cash match to be made available from nondepartmental contingency funds.

Councilman Boland moved for the adoption of Ordinance No. 1637. This motion was seconded by Councilman Tisdale.

On a roll call vote of 6-0, Ordinance No. 1637 passed on first and final reading.

Complete text of Ordinance No. 1637 will be found in Ordinance Book No. 11 at page 141.

C. ORDINANCE NO. 1638 - ORDINANCE AMENDING SECTION 28-52(B) OF CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE TO INCLUDE MURDOCK AVENUE AND MARTIN LUTHER KING DRIVE AS STREETS WHERE TRUCK TRAFFIC IS PROHIBITED

Mayor Bissette said this ordinance will prohibit truck traffic on Murdock Avenue, requested by the Claxton community group, and Martin Luther King Drive, requested by Mr. Larry Holt, on behalf of the residents of the area. He said the Traffic Engineer has recommended that these streets be added to the ordinance prohibiting truck traffic.

Councilman Price moved for the adoption of Ordinance No. 1638 restricting truck traffic on Murdock Avenue from Hillside Street to Evelyn Place until the completion of the construction at Grove Park Inn and to include Wilburn Road off Patton Avenue to Johnson Boulevard in Wilshire Park. This motion was seconded by Vice-Mayor Frank.

On a roll call vote of 6-0, Ordinance No. 1638 passed on first reading.

Councilman Michalove moved to suspend the rules and proceed to the second reading of Ordinance No. 1638. This motion was second by Councilman Boland.

On a roll call vote of 6-0, Ordinance No. 1638 passed on second reading.

Councilman Price requested that the City staff look into restricting truck traffic on Murdock Avenue to determine if the language in the ordinance is sufficient to comply with the agreement of Grove Park Inn for construction traffic.

V. CONSENT AGENDA

A. SCHEDULING PUBLIC HEARING RELATIVE TO REZONING PROPERTY LOCATED AT 169 and 171 DRUID DRIVE FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT FOR JULY 14, 1987

SUMMARY: The Asheville Planning and Zoning Commission considered the petition of Mr. Peter Wilson et al that Ward 6, Sheet 13, Lots 27 and 41 be rezoned from R-3 Residential District to CH Commercial Highway District. The property is located at 169 and 171 Druid Drive. After review and discussion, the Commission voted to recommend that the petition be denied and that the property remain as it is now zoned. The petitioner, Mr. Peter Wilson, has appealed the decision of the Planning and Zoning Commission, by letter dated June 8, 1987, and has requested that Council hold a public hearing relative to the rezoning request.

B. SCHEDULING PUBLIC HEARING RELATIVE TO REZONING PROPERTY LOCATED ON N.C. 81 ACROSS FROM SAYLES-BILTMORE BLEACHERS FROM R-2 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT FOR JULY 14, 1987

SUMMARY: The Asheville Planning and Zoning Commission considered the petition of Mr. Charles Ashton that Ward 8, Sheet 15, portion of Lot 87, be rezoned from R-2 Residential District to CH Commercial Highway District. The property is located on N.C. 81 across from Sayles-Biltmore Bleachers. After review and discussion, the Commission voted to recommend that the petition be denied and that the property remain as it is now zoned. The petitioner, Mr. Charles Ashton, has appealed the decision of the Planning and Zoning Commission, by letter dated June 15, 1987, and has requested that Council hold a public hearing relative to the rezoning request.

C. SCHEDULING PUBLIC HEARING RELATIVE TO REZONING PROPERTY LOCATED ON CLINGMAN AVENUE FROM R-3 RESIDENTIAL DISTRICT TO CS COMMERCIAL SERVICE DISTRICT FOR JULY 14, 1987

SUMMARY: The Asheville Planning and Zoning Commission at a meeting held June 3, 1987, considered the rezoning petition, plus lots in an area north of Hilliard, west of Clingman and southeast of West Haywood Street for possible inclusion in the Commercial Service District. The Commission voted to recommend to City Council that Ward 4, Sheet 3, Lots 22, 26, 27, 28, 29, 31, 32½, 34, 36, 36¼, 37, 38, 237, 240, 241, and 252 be rezoned from R-3 Residential District to CS Commercial Service District.

D. SCHEDULING PUBLIC HEARING RELATIVE TO REZONING PROPERTY LOCATED AT 243 EMMA ROAD FROM LI LIGHT INDUSTRIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT FOR JULY 14, 1987

SUMMARY: The Asheville Planning and Zoning Commission at a meeting held June 4, 1987, considered the petition of Mr. Ernest Porshia that Lots 23 and 24, Sheet 37, Ward 6, be rezoned from LI Light Industrial District to CH Commercial Highway District. The property is located at 243 Emma Road. After review and discussion, the Commission voted to recommend to City Council that Lots 23 and 24, Sheet 37, Ward 6, be rezoned from LI Light Industrial District to CH Commercial Highway District.

E. APPROVAL OF BIDS RECEIVED FOR ONE ASPHALT ROLLER FOR PUBLIC WORKS DEPARTMENT

SUMMARY: Four (4) bids were received for an asphalt roller for the Public Works Department. It is recommended to award this purchase to the low bidder, Arden Equipment Company, Arden, North Carolina, in the amount of $42,812.00.

F. RESOLUTION 87-117 - RESOLUTION REQUESTING A LOCAL WARNING WEATHER RADAR FOR WESTERN NORTH CAROLINA

SUMMARY: Incomplete and inaccurate forecasts produce unnecessary losses in lives, in property, in business, school and public agency closings, in air and ground transportation navigation, and in other productive activity. This resolution will join with other local agencies requesting the acquisition of a local warning radar by the National Weather Service.

Resolution Book No. 16 at page 377.

Upon motion of Councilman Michalove, seconded by Councilman Price, the Consent Agenda was unanimously approved.

VI. OTHER BUSINESS

A. RESOLUTION NO. 87-109 - SEWER MAINTENANCE CHARGE - RESCINDED

Councilman Tisdale moved to rescind Resolution No. 87-109 which established a sewer maintenance charge of $.70 per 100 cubic feet of water consumed effective July 1, 1987, and that the City Council place reconsideration of the establishment of a sewer maintenance charge on its agenda in two weeks. This motion was seconded by Councilman Boland and carried unanimously.

B. CLAIMS - VIOLA WILLIAMS (SEWER) - BRAD HAYES (WATER) - CLINT SLUDER (WATER)

The City Manager presented claims received from Viola Williams, Brad Hayes, and Clint Sluder.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

C. BILL SOUTHWICK - 60 GREELEY AVENUE - PERMIT FOR KEEPING GOAT

Bill Southwick, of 60 Greeley Avenue, spoke to members of Council relative to his problem in obtaining a permit to keep a goat in the City of Asheville. He presented a petition with approximately 64 signatures of neighboring property owners stating that they did not have a problem with the Southwick's keeping of a goat. He said the reason for keeping the goat is as a pet and for clearing a steep bank. He said according to the Code of the City of Asheville only milking goats can be kept inside the City of Asheville with a permit. He said his goat is a gelding and requested that the City amend the ordinance to include geldings.

The Corporation Counsel was instructed to review the ordinance to determine the feasibility of adding geldings as a permitted animal to be kept inside the City of Asheville with a permit.

It was noted that the Corporation Counsel would report back to Council relative to amending the ordinance in two weeks.

Upon inquiry of Mr. Southwick, Mayor Bissette said the City Manager would be requested to temporarily hold off issuing a citation to Mr. Southwick for the removal of the goat.

RALPH BISHOP - ASHEVILLE POLICE DEPARTMENT - LOTTERY SALES

Ralph Bishop again spoke to members of Council relative to the Asheville Police Department and lottery sales.

ADJOURNMENT

Mayor Bissette adjourned the meeting at 6:05 p.m.

Mayor

City Clerk

Tuesday - June 30, 1987 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Councilmen Kenneth M. Michalove, Norma T. Price, and George Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Vice-Mayor Mary Lloyd Frank, Councilman Wilhelmina Bratton, and Councilman Walter Boland.

INVOCATION

The invocation was given be Councilman Norma Price.

APPROVAL OF MINUTES OF JUNE 23, 1987 MEETING

Mayor Bissette announced the approval of the minutes of the June 23, 1987 meeting as submitted.

I. PROCLAMATIONS

A. National Therapeutic Recreation Week - July 5 - 11, 1987

Mayor Bissette proclaimed the week of July 5 - 11, 1987 as National Therapeutic Recreation Week at the request of Terry Lynn Imershein, Regional State Representative for the Therapeutic Recreation Division of the N. C. Parks and Recreation Society.

II. PUBLIC HEARINGS

A. Public hearing relative to rezoning property located at Haywood Road and Nevada Avenue from R-3 Residential District to CS Commercial Service District.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held May 13, 1987, reviewed and recommended that a portion of Lot 2-1/4, Sheet 11, Ward 5, be rezoned from R-3 Residential District to CS Commercial Service District.

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Mayor Bissette opened the public hearing at 4:30 p. m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Due to the absence of three Council members, Councilman Price moved to continue the public hearing relative to rezoning property located on Haywood Road and Nevada Avenue until July 14, 1987, without further advertisement. This motion was seconded by Councilman Tisdale and carried unanimously.

B. Public hearing relative to proposed Leisure Ridge Condominiums to be located on Fairview Road at Vista.

Mayor Bissette said the Asheville Planning and Zoning Commission on May 13, 1987 reviewed and recommended approval of the site plan subject to: 1. Lowering the fence, removing plastic strips and that the fence be green and the plantings be on the exterior; 2. Compliance with Erosion Control Ordinance; 3. Placement of fire hydrant; and 4. That street be constructed to city standards.

Mayor Bissette opened the public hearing at 4:21 p. m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the developer is proposing a thirty-three (33) unit condominium project on a five (5) acre tract. He said the facility is proposed for elderly citizens. He said a community building is planned which will have a nurse available. He reviewed the conditions specified by the Planning and Zoning Commission.

A discussion was held relative to the developer, Mr. Burl Lance, participating in the cost of sidewalk installations in front of the proposed development from property line to property line.

Mr. Lance indicated that he would be willing to participate in the cost of the sidewalk installations.

Janet McCraw, of 30 Vista Street, spoke in opposition to the project citing the lack of sidewalks on Fairview Road, high traffic volume on Fairview Road, and the overcrowding of the schools in the area. She cited high traffic counts taken by the City of Asheville and the North Carolina Department of Transportation. She commented on the poor site visibility at the intersection of Vista Street coming into Fairview Road.

Wendall Bailey, property owner in the area, requested that if Council approves the project that the developer be required to provide a fence around the project at least 6' high, to be green in color; that a row of trees be planted between the fence to be installed and the adjoining property owner's fence; that the

developer dedicate a 10' right of way to the city for sidewalk installations; that the existing large trees in front of the property be retained; that the fencing and plantings be in place prior to construction; and that occupancy be restricted to individuals above 18 years of age. He cited traffic conditions and overcrowded schools as reasons for his opposition.

Corporation Counsel Slawter said Council does not have the authority to impose restrictions on condominium declarations. Therefore, in his opinion Council could not restrict the individuals purchasing the units with regard to age limits. He said Council has authority to regulate the construction of the project.

Mayor Bissette closed the public hearing at 5:03 p. m.

Councilman Price moved to approve the site plan of the proposed Leisure Ridge Condominiums to be located on Fairview Road at Vista subject to the conditions outlined by the Planning and Zoning Commission; that the developer dedicate a 10' right-of-way for sidewalk installation; that the developer provide the materials for the construction of the sidewalks from property line to property line; that the fencing and plantings be in place prior to construction and following proper grading of the project; and that as many large trees as possible be retained. This motion was seconded by Councilman Tisdale and carried unanimously.

Mayor Bissette noted that Fairview Road is a state system street and the concerns of the residents should be brought to the attention of the North Carolina Department of Transportation for possible improvements and inclusion in the Transportation Improvement Projects.

C. **Public hearing relative to amending Ordinance No. 322, Asheville Zoning Ordinance, to include provision for amortization of nonconforming signs.**

Mayor Bissette said the Asheville Planning and Zoning Commission on June 3, 1987, considered City Council's request to investigate the feasibility of amending Ordinance No. 322, to include provision for amortization of nonconforming signs.

Mayor Bissette opened the public hearing at 5:08 P.M.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Mayor Bissette announced that due the number of Council members absent the public hearing relative to amortization of nonconforming signs will be continued until July 14, 1987.

Leah Karpen of Weaverville said the N. C. General Assembly is presently considering legislation relative to the amortization of nonconforming signs and their action may make Council's proposed ordinance invalid. She said Council should consider this action by the General Assembly.

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Lynn Brown of 62 Macon Avenue said she would be making formal comments at the public hearing on July 14, 1987; but she did want Council to note the number of individuals at the meeting today in support of the proposed ordinance that may not be at the July 14th public hearing.

Councilman Tisdale moved to continue the public hearing relative to amending the Zoning Ordinance for the amortization of nonconforming signs until July 14, 1987 without further advertisement. This motion was seconded by Councilman Michalove and carried unanimously.

III. OLD BUSINESS:

A. **Second reading of Ordinance No. 1636, an ordinance amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville," as amended, rezoning property on Fairway Drive (Carmelite Property).**

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held May 13, 1987, reviewed the request of City Council that the Commission consider rezoning a portion of Lot 61, Sheet 15, Ward 8, from O-I Office Institutional District to R-2 Residential District. The property is located on Fairway Drive and is known as the Carmelite Property. After review and discussion, the Commission voted to recommend to City Council that a portion of Lot 61, Sheet 15, Ward 8, be rezoned from O-I Office Institutional District to R-2 Residential District. This ordinance was read on first reading on June 23, 1987.

Mayor Bissette said this ordinance was previously read on first reading and will not be read in its entirety.

On a roll call vote of 4-0, Ordinance No. 1636 passed on second reading.

Councilman Michalove moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1636. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 4-0, Ordinance No. 1636 passed on third and final reading.

Complete text of Ordinance No. 1636 will be found in Ordinance Book No. 11 at page 140.

B. **Third reading of Ordinance No. 1638, an ordinance amending Section 28-52 (b) of Chapter 28 of the Code of Ordinances of the City of Asheville to include a portion of Murdock Avenue, Martin Luther King Drive, and Wilburn Road as streets where truck traffic is prohibited.**

Mayor Bissette said the ordinance will prohibit truck traffic on Murdock Avenue, from Hillside to Evelyn Place, requested by the Claxton Community Group, and Martin Luther King Drive, requested by Mr. Larry Holt, on behalf of the residents of this area, and Wilburn Drive off Patton Avenue. The Traffic Engineer has recommended that these streets be added to the ordinance prohibiting truck traffic.

Mayor Bissette said this ordinance was previously read on first reading and will not be read in its entirety.

Councilman Price moved to amend Ordinance No. 1638 to include the entirety of Murdock Avenue, and a portion of Wilshire Drive from Wilbur Road to Johnson Blvd. This motion was seconded by Councilman Michalove and carried unanimously.

On a roll call vote of 4-0, Ordinance No. 1638 passed on third and final reading.

Complete text of Ordinance No. 1638 will be found in Ordinance Book No. 11 at page 142.

C. Report from Corporation Counsel relative to amending the Animal Control Ordinance to include keeping of gelding goat in the City of Asheville.

Mayor Bissette said a request was received at the June 23, 1987 from Bill Southwicke at 30 Greely Street to amend the Animal Control Ordinance to permit the keeping of a gelding goat in the City of Asheville.

Corporation Counsel Slawter said the existing Animal Control Ordinance provides for the keeping of milking goats in the City of Asheville provided a permit is issued by the Animal Control Officer. He said, as instructed by Council, he had prepared an amendment to the Animal Control Ordinance to allow for the keeping of a gelding goat in the City of Asheville provided a permit is issued by the Animal Control Officer if Council so desires to amend the ordinance. He said he would assume that milking goats were permitted under the ordinance due to the perceived need for goat milk.

Herman Rector of 59 Greely Street spoke in opposition to the proposed amendment to allow for the keeping of goats in the City of Asheville. He said he had complained about the goat being kept at 30 Greely Street for the past year. He said a goat can be a nuisance and has an odor. He said the goat at 30 Greely Street has been kept illegally. He said property values in the area have decreased since the goat has been in the area. He said the goat has been loose on three (3) different occasions. He presented a map showing the property in the area as well as comments relative to the goat at 30 Greely Street from surrounding property owners. He said there is no possible way the goat can be kept 150' from a residence as required by the Animal Control Ordinance. He reminded Council that if the

ordinance is amended goats would be allowed all over the City of Asheville.

Charles Penny, Assistant City Manager, said Mr. Southwicke was under the impression Council was not going to discuss this matter until July 7, 1987. He said since Mr. Southwicke is not present for the discussion he would report Council's action to Mr. Southwicke.

After discussion by members of Council, the public, and the Animal Control Officers, it was Council's decision not to amend the ordinance to allow for the keeping of gelding goats and that Mr. Southwicke be given two (2) weeks to have the goat removed from 30 Greely Street.

Councilman Price requested that the Corporation Counsel review the current Animal Control Ordinance and ordinances from other cities dealing with potentially dangerous dogs. She said she had received a number of complaints from residents on Winfred Street, off Carrier Place, about the keeping of potentially dangerous pit bull dogs.

IV. NEW BUSINESS:

None Scheduled

V. CONSENT AGENDA:

A. **Approval of bids received for Street Sweeper for the Public Works Department, Street Division.**

SUMMARY: Recommendation for award to Bruder/Sharper, Inc., Madison, North Carolina, in the amount of $80,671.40 for one (1) self-contained street sweeper for Public Works Department, Street Division.

B. **Resolution No. 87-118 - Resolution authorizing the Mayor of the City of Asheville to execute easement in favor of the Carolina Power and Light Company, property located at the Asheville Airport.**

SUMMARY: Carolina Power and Light Company has requested that the City execute a right-of-way easement on property belonging to the City of Asheville located at the Asheville Regional Airport, bounded by lands of Henderson County on the North and U. S. Highway I-26 on the East, Fanning Bridge Road on the South and Airport Road on the West, for the purposed of updating an existing electric power line.

Resolution Book 16 - Page 378

D. **Resolution No. 87-119 - Resolution appointing member to the Asheville-Buncombe Crime Stoppers Committee.**

SUMMARY: This resolution will appoint Elliott Eki as a member of the Asheville-Buncombe Crime Stoppers Committee for a term of three years, term expiring June 10, 1990.

Resolution Book 16 - Page 379

E. Resolution No. 87-120 - Resolution appointing member to the Tourism Development Authority.

SUMMARY: This resolution will appoint Steve Miller as a member of the Tourism Development Authority for a term of three (3) years, term expiring August 30, 1990.

Resolution Book 16 - Page 380

F. Resolution No. 87-121 - Resolution authorizing the City Manager to execute contract with McGladrey, Henderickson, and Pullen for a computer study and development of a long range Data Processing Plan.

SUMMARY: Proposals were received to develop a long range plan for Data Processing for the City of Asheville. Data Processing Director and Data Processing Executive Steering Committee recommends the acceptance of the proposal from McGladrey, Hendrickson, and Pullen in an amount not to exceed $32,500.

Resolution Book 16 - Page 381

G. Resolution No. 87-122 - Resolution authorizing the City Manager to execute an agreement between the City of Asheville and Hewitt-Coleman and Company for the purpose of providing administrative services to the City's program of self-insured workers' compensation.

SUMMARY: This will place administrative services of workers' compensation with Hewitt-Coleman and Company, effective June 27, 1987. This proposal was selected and endorsed as the superior proposal by the Asheville-Buncombe Insurance Advisory Committee.

Resolution Book 16 - Page 382

H. Scheduling public hearing relative to the site plan of the proposed Federal Express Facility to be located on Patterson Mill Road for July 14, 1987.

SUMMARY: The Asheville Planning and Zoning Commission at a meeting held June 10, 1987 reviewed and approved the site plan subject to:

1. That the final landscape plan be approved by the Planning and Zoning Commission.

2. That in conjunction with final landscape plan, developer consider holding pavement parallel to I-240 twenty feet off property line except as needed for ingress and egress, and that ingress and egress off Patterson Mill Road be other than commercial use.

Upon motion of Councilman Price, seconded by Councilman Tisdale, the consent agenda was unanimously approved.

OTHER BUSINESS

OTIS STREET PARKING LOT - RATES INCREASED

Councilman Tisdale moved to increase the monthly rate for parking at the Otis Street Parking Lot from $15.00 to $20.00 per month, effective July 1, 1987. This motion was seconded by Councilman Price and carried unanimously.

PARKING GARAGE BIDS - RANKIN AVENUE - WALL STREET - RESCINDED

The City Manager said due to threatened litigation by Dixie Construction Company relative to the bids awarded for the Rankin Avenue and Wall Street Parking Garage he would recommend that Council rescind their action of June 23, 1987 awarding the General Contract to Freeman and Wood and to re-bid the General Contract.

Councilman Michalove moved to rescind the action taken by Council on June 23, 1987 awarding the General Contract for the Rankin Avenue and Wall Street Parking Garages to Freeman and Wood Construction Company. This motion was seconded by Councilman Tisdale and carried unanimously.

Councilman Price moved to reject all bids received for the General Contract for the Rankin Avenue and Wall Street Parking Garages. This motion was seconded by Councilman Tisdale and carried unanimously.

The City Manager said the General Contract would be re-bid and bids would be received on July 14, 1987. He said the same bond schedule would apply with these dates.

COUNCIL MEETING OF JULY 7, 1987 - CANCELLED

Mayor Bissette announced that the Council meeting scheduled for July 7, 1987 would not be held due to the July 4, 1987 holiday.

REPORT FROM HAROLD HUFF, DIRECTOR OF WATER AND SEWER SERVICES RELATIVE TO WATER AUTHORITY BUDGET

Mr. Huff reported that he had attended the Buncombe County Commissioner's meeting today and the Board of Commissioners voted unanimously not to adopt the Water Authority Budget as submitted. He said the Commissioners desire to have the budget amended to include two and one-half (2-1/2) percent of gross revenues for the County to reflect the significant prior contribution of the County to the water system. He said upon advice from the Legal

Counsel, the Commissioners said they would be willing to approve a budget containing the 2 1/2 percent of gross revenues earmarked for the County or an interim (31-day) budget.

Mayor Bissette said as instructed by Council he had written to the Commissioners informing them that Council stood behind their first communication, dated April 7, 1987 in which Council would be willing to discuss the Water Agreement with the County Commissioners; however, Council would not be willing to discuss autonomy, or a reduction in payments. He said he had also informed them that Council would discuss a return on the County's investment, and wanted to discuss the excessive increase, by the County, of landfill tipping fees and charges for tax collection services. He said in his opinion the City Council has been ready and willing to discuss the Water Agreement with the County. He said he had hand delivered the letter to Chairman Ratcliff on Friday, June 26, 1987 and has received no response from that letter.

Councilman Price moved that Council go into Executive Session to discuss a legal matter. This motion was seconded by Councilman Tisdale and carried unanimously.

RALPH BISHOP - COMMENTS RELATIVE TO LOTTERY SALES

Ralph Bishop again spoke to members of Council relative to lottery sales in the City of Asheville.

ADJOURNMENT

Mayor Bissette adjourned the meeting at 6:15 p. m.

MAYOR

CITY CLERK

120

Wednesday - July 1, 1987 - 5:00 P.M.
Emergency Meeting

Present: Mayor W. Louis Bissette, Presiding; Councilmen Kenneth M. Michalove, Norma T. Price, and George Tisdale, Walter R. Boland; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Vice-Mayor Mary Lloyd Frank and Councilman Wilhelmina Bratton.

ADOPTION OF INTERIM FY 1987-88 BUDGET FOR THE ASHEVILLE/BUNCOMBE WATER AUTHORITY

Mayor Bissette read the following letter addressed to Ralph D. Morris, Jr., Chairman of the Asheville-Buncombe Water Authority:

July 1, 1987

Mr. Ralph Morris, Jr.
Chairman
Asheville-Buncombe Water Authority
P. O. Box 7148
Asheville, North Carolina 28807

Dear Ralph:

Yesterday, at a formal meeting of the Board of Commissioners the Board,, upon review and consideration of the budget for the Asheville-Buncombe Water Authority, declined to approve the budget as submitted. The Board of Commissioners voted unanimously to have the budget changed to include two and one-half (2-1/2) percent of gross revenues for the County to reflect the significant prior contribution of the County in the development of the water system.

Understanding the urgent need for immediate action towards adoption of a budget, the Commissioners will, upon review and consideration, approve either a FY 1987-88 budget containing the aforementioned 2-1/2 percent of gross revenues earmarked for the County or an interim (31-day) budget. The interim budget might be considered to provide the time necessary to develop the revised budget.

Sincerely,

R. Curtis Ratcliff
Chairman of the Board

/mmp
cc: Mr. Harold Huff
Water Authority Board Members

[illegible] had not personally received notification from the County Commissioners on their action.

Upon inquiry of Councilman Michalove, Corporation Counsel Slawter said the Water Authority does not have the authority to grant requests of the County of Buncombe without violating the Water Agreement.

Harold Huff, Director of Water and Sewer Services, presented Resolution 87-15, Resolution Adopting and Appropriating an "Interim" FY 1987-88 Budget for the Asheville-Buncombe Water Authority adopted by the Authority on July 1, 1987. He said the budget, in the amount of $1,370,030.00, represents one months operation plus capital needs for the administration of the Water System.

Upon inquiry of Mayor Bissette as to whether or not bond covenants were violated by not approving the Water Budget, the Corporation Counsel said he would leave that question up to the bond attorneys, Mr. Aperans.

Councilman Tisdale moved that the Council concur in the adoption of the Asheville-Buncombe Water Authority's resolution, Resolution No. 87-15, adopting and appropriating an "Interim" FY 1987-88 Budget for the Asheville-Buncombe Water Authority. This motion was seconded by Councilman Boland and carried unanimously.

Mayor Bissette adjourned the meeting at 5:30 P.M.

MAYOR

CITY CLERK

Tuesday - July 14, 1987 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Kenneth M. Michalove, Norma T. Price, and George Tisdale, Wilhelmina Bratton; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Walter Boland.

INVOCATION

The invocation was given be Mayor Bissette.

APPROVAL OF MINUTES OF REGULAR MEETING OF JUNE 30, 1987 AND EMERGENCY MEETING OF JULY 1, 1987

Mayor Bissette announced the approval of the minutes of the regular meeting of June 23, 1987 and the emergency meeting of July 1, 1987, as submitted.

I. PROCLAMATIONS

A. August 17 and September 20, 1987 - "Roads to Liberty" and "Liberty Spectacular"

Mayor Bissette proclaimed August 17 and September 20, 1987 as "Roads to Liberty" and "Liberty Spectacular" in relationship to the Bicentennial Commission.

Mayor Bissette presented the proclamation to Bob Barber, Project Director for Fund Raising for the Bicentennial Commission.

II. PUBLIC HEARING

A. Public hearing relative to rezoning property located at 169 and 171 Druid Drive from R-3 Residential District to CH Commercial Highway District.

Mayor Bissette said the Asheville Planning and Zoning Commission considered the petition of Mr. Peter Wilson et al that Ward 6, Sheet 13, Lots 27 and 41 be rezoned from R-3 Residential District to CH Commercial Highway District. The property is located at 169 and 171 Druid Drive. After review and discussion, the Commission voted to recommend that the petition be denied and that the property remain as it is now zoned. The petitioner, Mr. Peter Wilson, has appealed the decision of the Planning and Zoning Commission, by letter dated June 8, 1987, and has requested that Council hold a public hearing relative to the rezoning request.

Mayor Bissette opened the public hearing at 4:16 p. m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the petitioner has requested that Council continue the public hearing until August 4, 1987.

Councilman Price moved to continue the public hearing relative to rezoning property on Druid Drive until August 4, 1987 without further advertisement. This motion was seconded by Vice-Mayor Frank and carried unanimously.

B. **Public hearing relative to rezoning property located on N. C. 81 across from Sayles-Biltmore Bleachers from R-2 Residential District to CH Commercial Highway District.**

Mayor Bissette said the Asheville Planning and Zoning Commission considered the petition of Mr. Charles Ashton that Ward 8, Sheet 15, portion off Lot 87, be rezoned from R-2 Residential District to CH Commercial Highway District. The property is located on N. C. 81 across from Sayles-Biltmore Bleachers. After review and discussion, the Commission voted to recommend that the petition be denied and that the property remain as it is now zoned. The petitioner, Mr. Charles Ashton, has appealed the decision of the Planning and Zoning Commission, by letter dated June 15, 1987, and has requested that Council hold a public hearing relative to the rezoning request.

Mayor Bissette opened the public hearing at 4:19 p. m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the petitioner requested the rezoning of this property in order to continue his business which is located across from the entrance to Sayles-Bleachers. He said the Planning and Zoning Commission recommended denial of the request because they felt the rezoning would be an intrusion into a residential area. He said a petition was filed before the Planning and Zoning Commission from the residents in the area opposing the rezoning.

Clarence Waycaster, of 26 Swannanoa Drive, said it was his understanding that the petitioner, Mr. Charles Ashton, has given up on having the property rezoned since he has moved his business and the property is now for sale.

Mr. Ned Guttman, 58 Beechwood Road, speaking on behalf of the Redwood Forest Homeowners Association, objected to the rezoning of the property in question.

Mark Kristen, 136 Governors View Drive, spoke in opposition to the rezoning.

Mayor Bissette closed the public hearing at 4:20 p. m.

Councilman Price moved to accept the recommendation of the Planning and Zoning Commission and to deny the rezoning request of Mr. Charles Ashton to rezone property located on N. C. 81 across from Sayles-Biltmore Bleachers from R-2 Residential District to CH Commercial Highway District. This motion was seconded by Councilman Tisdale and carried unanimously.

C. Public hearing relative to rezoning property in the area north of Hilliard, west of Clingman and southeast of West Haywood Street to Commercial Service District

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held June 3, 1987, considered the rezoning petition, plus lots in an area north of Hilliard, west of Clingham and Southeast of West Haywood Street for possible inclusion in the Commercial Service District. The Commission voted to recommend to City Council that Ward 4, Sheet 3, Lots 22, 26, 27, 28, 29, 31, 32-1/4, 34, 36, 36-1/4, 37, 38, 237, 240, 241, and 252 be rezoned from R-3 Residential District to CS Commercial Service District.

Mayor Bissette opened the public hearing at 4:26 P.M.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the original petition to rezone the property was received from Mr. Murphy for the purpose of establishing a business at the corner of Clingman Avenue and Old Haywood Street. However, the Planning and Zoning Commission recommended that all property down to the curb line be included in the rezoning to Commercial Service District. He said property owners adjoining the property proposed to be rezoned was notified and the only concern expressed was the understanding of what rezoning actually means. The property owners indicated that if the rezoning was in any way connected to a renewal project they would object. He said the property owners were informed that the rezoning would in no way constitute a renewal project.

Genell Leak, of 28 Knoxville Place, and John Williams of 29-1/2 Knoxville Place, asked members of Council what the rezoning would actually mean for their property.

At the request of Mr. Williams, Council instructed the City Manager to look into a water problem running onto Knoxville Place from the Meeker Mercury Automobile Dealer adjacent to their property.

Jonathan Rivers of 91 Clingman Avenue and Mrs. Lock, of 89 Clingman Avenue, questioned the actual location of the property proposed to be rezoned. Mr. Emrick explained to them that their property was not included in the area to be rezoned.

After discussion, Councilman Tisdale moved to continue the public hearing until August 4, 1987, without further advertisement, giving the Planning Staff an opportunity to meet with the property owners and explain the effects of rezoning. This motion was seconded by Vice-Mayor Frank and carried unanimously.

L. **Public hearing relative to rezoning property located at 243 Emma Road from LI Light Industrial District to CH Commercial Highway District.**

Ordinance No. 1639 - An Ordinance amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville," as amended, petition off Mr. Ernest Porshia property located on Emma Road.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held June 4, 1987, considered the petition of Mr. Ernest Porshia that Lots 23 and 24, Sheet 37, Ward 6, be rezoned from LI Light Industrial District to CH Commercial Highway District. The property is located at 243 Emma Road. After review and discussion, the Commission voted to recommend to City Council that Lots 23 and 24, Sheet 37, Ward 6, be rezoned from LI Light Industrial District to CH Commercial Highway District.

Mayor Bissette opened the public hearing at 4:45 P.M.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Planning Director, said the petitioner, Mr. Ernest Porshia, requested the rezoning in order that his son can build a residence on the property. He said single family residences are not allowed in the LI Light Industrial zone, but would be allowed in the Commercial Highway District. He said this is an upgrading of zoning for the area.

Mayor Bissette closed the public hearing at 4:47 P.M.

Vice-Mayor Frank moved for the adoption of Ordinance No. 1639. This motion was seconded by Councilman Tisdale.

On a roll call vote of 6-0, Ordinance No. 1639 passed on first reading.

F. **Public hearing relative to the site plan of the proposed Federal Express Facility to be located on Patterson Mill Road.**

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held June 10, 1987, reviewed and approved the site plan subject to:

1. That final landscape plan be approved by Planning and Zoning Commission.

2. That in conjunction with final landscape plan, developer consider holding pavement parallel to I-240 twenty feet off property line except as needed for ingress and egress, and that ingress and egress off Patterson Mill Road be other than commercial use.

Mayor Bissette opened the public hearing at 4:49 P.M.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Planning Director, said the Federal Express Facility would be located on I-240 and would consist of 26,000 square feet. He said concerns were expressed, at the Planning and Zoning Commission meeting, relative to the access to the site. He said the Commission recommended restriction of the use of Hendersonville Road. He said signs for the facility would be low on the building.

Mayor Bissette closed the public hearing at 4:54 P.M.

Councilman Tisdale moved to approve the site plan of the proposed Federal Express Facility as recommended by the Planning and Zoning Commission. This motion was seconded by Councilman Price and carried unanimously.

III. OLD BUSINESS:

A. **Continuation of a public hearing relative to rezoning property located at Haywood Road and Nevada Avenue from R-3 Residential District to CS Commercial Service District.**

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held May 13, 1987, reviewed and recommended that a portion of Lot 2-1/4, Sheet 11, Ward 5, be rezoned from R-3 Residential District to CS Commercial Service District.

Mayor Bissette said due to a protest petition being filed in opposition to the rezoning of this property and the absence of several Councilmembers he would suggest that the public hearing be continued until August 4, 1987.

Councilman Tisdale moved to continue the public hearing relative to rezoning property located at Haywood Road and Nevada Avenue until August 4, 1987, without further advertisement. This motion was seconded by Vice-Mayor Frank and carried unanimously.

B. Continuation of a public hearing relative to amending Ordinance No. 322, Asheville Zoning Ordinance, to include provision for amortization of nonconforming signs.

Ordinance No. 1640 - An Ordinance amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville," as amended (Wording Amendment - Section 30-9-6. Nonconforming Signs. (On and Off Premise)

Mayor Bissette said the Asheville Planning and Zoning Commission on June 3, 1987, considered City Council's request to investigate the feasibility of amending Ordinance #322 to include provision for amortization of nonconforming signs.

Verl Emrick, Planning Director, said this ordinance would provide that any nonconforming sign, on or off premise, must be brought into compliance with 5-1/2 years or removed. He said the Planning Department conducted a sign survey along the major thoroughfares, including Patton Avenue/Smoky Park Highway, Leicester Highway, Louisiana Avenue, Emma Road, Haywood Road, Brevard Road, Amboy Road, Victoria Road, McDowell; Biltmore Avenue, Hendersonville Road, Sweeten Creek Road, Swannanoa River Road, Fairview Road, Tunnel Road, Haw Creek/Beverly Road, Charlotte Street, West Chestnut, Merrimon Avenue, Broadway, Hill Street/Cherry Street, Riverside Drive and the Central Business District. He said the survey indicates 902 nonconforming signs, 40 of which are billboards, or off premise signs.

A resident of 706 River Ridge Drive, speaking on behalf of the Asheville-Buncombe League of Women Voters, spoke in support of the ordinance, stating that Asheville needs more restrictive controls on signs. She said it is important that Council adopt this ordinance now before the General Assembly adopts pending legislation relative to amortization of nonconforming signs providing that municipalities must compensate for the requirement to remove or bring a sign into compliance.

Leah Karpen, 400 Charlotte Street, spoke in support of the ordinance, stating there are nonconforming signs on major and minor thoroughfares.

Wayne Kinser, owner of Great Smokies Hilton, and a resident of Vance Gap Road, spoke in opposition to the ordinance. He said he felt the ordinance was an anti-business ordinance and would be detrimental to many of the businesses. He said it would cost him approximately $30,000 to bring his sign at the Hilton into compliance. He said he felt this ordinance would be an encroachment upon individual rights, would provide the taking of private property without

compensation, and would restrict the freedom of businesses to enjoy their business.

Mike Summey, Summey Outdoor Advertising, a billboard business, said the General Assembly is presently considering legislation to require municipalities to compensate sign company in the event a sign has be removed due to nonconformity. He cited several Supreme Court decisions relative to this issue. He said he felt this ordinance was a plan of extortion. He said under the recent Supreme Court decisions municipalities were required to use their power of eminent domain or to pay compensation to the sign companies.

Danie Johnson, of 181 Lakeshore Drive, and President of the Asheville Area Section of the North Carolina Chapter of the Institute of Architects, representing 45 area architects, read a resolution adopted by their association supporting the adoption of the ordinance.

Lin Brown of 62 Macon Avenue, spoke in support of the ordinance stating that signs are visual pollution.

Councilman Price said she had to leave the meeting, but was leaving unexcused in order that her vote could be in the affirmative. She said it was her hope that the General Assembly would not pass the pending legislation and give municipalities an opportunity to review sign regulations.

John Zero of 526 Sunset Drive, spoke in support of the ordinance.

A resident of 3 Vineyard Place, spoke in support of the ordinance.

Chris Moutos, 155 Tunnel Road, Mountaineer Steak House, spoke in opposition to the ordinance stating that he would be required to remove a sign from his business that has been in place since 1952.

Lloyd Kirk, 866 Hendersonville Road, Forest Manor Motor Lodge, spoke in opposition to the ordinance. He said he did not feel there is anything wrong with the present sign ordinance. He said this ordinance would allow for the taking of private property without compensation. He said the ordinance is aimed at eventually taking all signs down. He said the ordinance was anti-business and businesses depend on signs. He said business is the source of taxes, payroll, and economic development in the City of Asheville. He said Council should consider the negative impact this ordinance would have on businesses. He said if he is directed to remove his sign at his business he will proceed to file a lawsuit against the City of Asheville.

David Gantt, Attorney, spoke in support of the ordinance.

June Grant said she feels the present City Council has constantly exercised their power taking a negative approach toward businesses. She spoke in opposition to the ordinance.

Ralph Bishop spoke in opposition to the ordinance.

Vice-Mayor Frank spoke in support of the ordinance stating that the City should become more aware of what they are looking at and Asheville should be in a leadership role.

Mayor Bissette noted that letters were received from the following individuals opposing the proposed sign ordinance:

Syd Bartlett, Fox Styling Shops; Martha Lowe, NCNB National Bank; Lee Towery, Towery Realty Company; Mr. Koon, Asheville Oil Company; Kenneth McClellan; J. W. Hoyle, Hoyle Office Supplies; Robert Ledford, Bob Ledford's Inc; B. Dan Hembree, Amerifirst Mortgage Corp.; Dan Stanley, Bill Stanley's; Clifford R. Longcoy, Robinson-Conner of North Carolina; J. Don Tomberlin, Robinson-Conner of North Carolina; Joan Burge;Allen Osborne; J. V. Barkley, Barkley Toyota; Joe Eblen-, Biltmore Oil Company; Craig Madison, The Alpha Group; Donna Sprouse, Calabash West Restaurant; Burger King; Marie M. Candler, Great Smokies Hilton; Kostas Rantzos; Steve Junken, Fuddruckers; John Teeter, Pepsi-Cola; Claudia Jane Lentz; and Larry Plount.

Mayor Bissette closed the public hearing at 6:05 P. M.

Vice-Mayor Frank moved to amend the ordinance to delete the language dealing with on-premise signs and to limit the ordinance to off-premise signs. This motion was seconded by Councilman Tisdale.

Councilman Michalove said over the past two years Council has worked with Alternatives for Asheville and that plan should be forthcoming in the next three weeks. He said he had received a number of letters in opposition to the ordinance. He said the ordinance seems to be unfair to businesses, however in his opinion Council is "backed into a corner" with the pending General Assembly legislation. He said an ordinance can be amended at any given time by any Council and in his opinion Council should adopt this ordinance to deal with on and off premise signs in order for Council to keep their options open as far as amortization of nonconforming signs.

Mike Summey, Summey Outdoor Advertising Company, said there is no logic to the ordinance since there area only 40 nonconforming billboards. He said the ordinance is directed specifically at his businesses. He said signs are important to the Asheville area since many businesses check on the availability of billboards before coming to Asheville.

Councilman Michalove said if Council adopts this ordinance as originally proposed Council would be leaving their options open if the General Assembly passes the pending legislation. He said Council could then, in November, after the Alternatives for Asheville plan is presented, review the entire sign ordinance. He said perhaps at that time Council

could come up with a sign ordinance which would be agreeable to everyone.

Vice-Mayor Frank withdrew her motion to amend the ordinance. Councilman Tisdale withdrew his second to the motion.

Councilman Michalove moved for the adoption of Ordinance No. 1640. This motion was seconeded by Vice-Mayor Frank.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety. He said any individual requesting a copy of the ordinance would be furnished one at no cost.

On a roll call vote of 6-0, Ordinance No. 1640 passed on first reading.

Councilman Michalove moved to suspend the rules and proceed to the second reading of Ordinance No. 1640. This motion was seconded by Vice-Mayor Frank.

On a voice vote of 3-2, Councilman Michalove's motion failed, with Mayor Bissette, Councilman Bratton, and Councilman Tisdale voting "no".

C. RESOLUTION NO. 87-123 - RESOLUTION ESTABLISHING SEWER MAINTENANCE USER FEE

Mayor Bissette said this resolution will establish a sewer maintenance user fee in order to generate sufficient revenue to meet the costs of operating and maintaining the City of Asheville sewer collection system.

The City Manager said the city staff held two meetings with large industry representatives relative to the proposed sewer maintenance user fees. He said the recommended user fee will be based on the size of meters since there is an additional cost to maintain larger sewer lines.

Upon motion of Vice-Mayor Frank, seconded by Councilman Michalove, Resolution No. 87-123 was unanimously adopted.

Complete text of Resolution No. 87-123 will be found in Resolution Book No. 16 at page 383.

D. Resolution authorizing the City Manager to sign a contract on behalf of the City of Asheville for the General Contract for the construction of the Wall Street and Rankin Avenue Parking Garages.

The City Manager said the general contract for the construction of the Wall Street and Rankin Avenue Parking Garages was rebid and the low bidder was Dixie Constructors, Inc. in the amount of $3,485,000. He said the consultants, Enwright Associates, reviewed the bids and recommended the acceptance of the low bid of Dixie Constructors, Inc.

Larry McDevitt, Attorney, representing Freeman and Wood Contractors, reviewed the background of the bids for the parking garages. He said Freeman and Wood was the low bidder when the bids were first opened and the Freeman and Wood bid was accepted by Council. He said although Freeman and Wood failed to fill in the number of days for completion it was apparent that the City did not consider that information substantial. He said Council, under the law, is allowed to waive that type of information for bids. He said Council exercised that option and accepted the bid of Freeman and Wood. He said subsequent action by Council to rescind the action awarding the contract to Freeman and Wood was inappropriate. He requested that Council readopt their action to award the contracts to Freeman and Wood since their bid was proper, legal, and appropriately accepted. He said Freeman and Wood is concerned about this action and if Council does not readopt their action, Freeman and Wood will be forced to pursue other rememdies available to them.

Councilman Michalove moved that Council go into executive session to discuss a legal matter. This motion was seconded by Vice-Mayor Frank and carried unanimously.

After returning from executive session, Mayor Bissette announced that Council would not take action on the bids for the parking garages at today's meeting but would recess this meeting to meet again on Thursday, July 16, 1987 at 12:30 P.M. to consider the bids.

IV. NEW BUSINESS:

A. Resolution No. 87-124 - Resolution authorizing the City Manager to sign an agreement for services with Personnel Performance Systems, Inc.

Mayor Bissette said this agreement for counseling services will continue an Employee Assistance Program for employees and their family members, with a new service provider. The annual fee of $6,480 ($7.62 per year per employee) should be more than recovered each year thru reduction in sick leave and poor work performance by employees suffering from personal problems. This agreement will also allow employees to receive services from a variety of professionals in the area, both public and private, to the benefit of employees, and their families.

Councilman Michalove requested to be excused from vote and participation on this resolution due to a conflict of interest.

Vice-Mayor Frank moved to excuse Councilman Michalove from voting and participation relative to the agreement for services with Personnel Performance Systems, Inc. This motion was seconded by Councilman Tisdale and carried unanimously.

Councilman Tisdale moved for the adoption of Resolution No. 87-124. This motion was seconded by Vice-Mayor Frank and carried unanimously.

Complete text of Resolution No. 87-124 will be found in Resolution Book No. 16 at page 384.

B. Resolution No. 87-125 - Resolution authorizing the Mayor to execute an agreement on behalf of the City of Asheville with the Asheville Chapter of the American Red Cross.

Mayor Bissette said UMTA regulations require that the City provide public transportation services within the corporate City limits to qualified handicapped individuals, including wheelchair users and semi-ambulatory persons. Said service is currently provided by the American Red Cross pursuant to an agreement which terminates June 30, 1987. Upon review of proposals submitted the Ci6ty Council deems it in the best interests that a more comprehensive effort be undertaken by the City and Transit Authority in order to determine by whom such services should be provided in the future. It appears that six (6) months time will be required in order to fully determine the needs and to properly formulate, preceive, and analyze proposals for the service. This resolution will authorize the extension of the Red Cross agreement for a six month period.

Bob Jones, Patton Mountain Road, representing Penland and Sons, Inc. which also operates Blue Bird Taxi Service, said his company had bid on the transportation for the elderly and handicapped. He said Blue Bird Taxi Service submitted the low bid in the amount of $29,500 and received a letter from the Asheville Transit Authority to prepare for the execution of the contract. He said he then received a letter from Asheville Transit Authority stating that $1 million in liability insurance was required from them or the service would have to be rebid. He said his company complied with the insurance requirement. He requested that his company be given the opportunity to provide the transportation service during the interim period whild the City is reviewing the 504 UMTA Program or to extend the contract with American Red Cross for only a ninety (90) day period.

Carl Owenby, with the Asheville Transit Authority, said the services will be rebid to allow for compliance with federal guidelines. He said a public hearing is scheduled by the Asheville Transit Authority for August 14, 1987 relative to the 504 UMTA Program and after that time the bid specifications will comply with federal guidelines. He said the Transportation Advisory Council is required to review the 504 Program, of which Councilman Tisdale is chairman.

After discussion, Councilman Michalove moved for the adoption of Resolution No. 87-125. This motion died for the lack of a second.

Vice-Mayor Frank moved to adopt Resolution No. 87-125 with the provision that the American Red Cross contract be extended for a period of four (4) months. This motion was seconded by Councilman Tisdale and carried unanimously.

Complete text of Resolution No. 87-125 will be found in Resolution Book No. 16 at page 385.

V. CONSENT AGENDA:

A. Approval of bids received for communication center console for the Asheville Police Department's Communication Division.

SUMMARY: Recommendation for award of Bid Request No. 299-87 to Motorola C & E., Inc., Charlotte, North Carolina, in the amount of $117,749.00 for a Communication Center Console for the Asheville Police Department's Communications Division.

B. Approval of bids received for four (4) inch diameter fire hose for the Asheville Fire Department.

SUMMARY: Recommendation for award of Bid Request No. 296-87, four (4) inch diameter fire hose for the Asheville Fire Department (as recommended) for the total amount of $13,860.00.

C. Motion authorizing settlement of Daniels Graphics Claim.

SUMMARY: Settlement relative to closing of alley in vicinity of Daniels Graphics for Rankin Street Parking Garage.

D. Scheduling public hearing relative to the site plan of the proposed expansion of the NCDOT Maintenance Complex on U. S. 74 for August 4, 1987.

SUMMARY: The Asheville Planning and Zoning Commission at a meeting held June 10, 1987, reviewed a site plan of the proposed expansion of the NCDOT Maintenance Complex on U. S. 74. The site plan was prepared by Ellis, Naeyaert, Genheirmer, Associates, Inc. for the State and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project subject to compliance with the Erosion Control Ordinance.

E. Resolution No. 87-126 - Resolution authorizing the City Manager to adopt Administrative Pay Policies.

SUMMARY: Until recently the City Manager had adopted administrative pay policies unilaterally. A recent case, Newber v. City of Wilmington, 83 N.C. App. 327 (1986), however, requires that a City Council formally "establish the schedule of pay .. and other compensation of all City employess." This resolution will formally authorize the City Manager to adopt administrative pay policies which supplement the City's basic pay and classification plan.

Upon motion of Councilman Michalove, seconded by Vice-Mayor Frank, the consent agenda was unanimously approved.

Ordinance No. 1641 - Budget Ordinance amendment appropriating funds for Riverfront Planning Grant.

Mayor Bissette said the N. C. General Assembly presented the City of Asheville with a $13,000 Riverfront Planning Grant in 1986. This budget amendment set ups an account description for the river planning revenue.

Vice-Mayor Frank moved for the adoption of Ordinance No. 1641. This motion was seconded by Councilman Tisdale.

On a roll call vote of 6-0, Ordinance No. 1641 passed on first and final reading.

Complete text of Ordinance No. 1641 will be found in Ordinance Book No. 11 at page 146.

MOTION TO RECESS MEETING - THURSDAY - JULY 16, 1987 - 12:30 P.M.

Councilman Tisdale moved to recess the Council meeting until Thursday, July 16, 1987 at 12:30 P.M.

MAYOR _____ CITY CLERK

Thursday - July 16, 1987 - 12:30 P.M.

Reconvened Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Kenneth M. Michalove, and George Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Walter Boland, Councilman Norma T. Price, and Councilman Wilhelmina Bratton.

RESOLUTION NO. 87-127 - RESOLUTION AWARDING THE BIDS AND AUTHORIZING EXECUTION OF THE CONTRACTS FOR CONSTRUCTION OF THE WALL STREET AND RANKIN AVENUE PARKING DECKS

Mayor Bissette said this resolution will authorize the City Manager to execute a contract with Dixie Constructors, Inc. for the construction of the Wall Street and Rankin Avenue Parking Decks in the amount of $3,485,000.

Upon motion of Vice-Mayor Frank, seconded by Councilman Michalove, Resolution No. 87-127 was unanimously adopted.

Complete text of Resolution No. 87-127 will be found in Resolution Book No. 16 at page 387.

RESOLUTION NO. 87-128 - RESOLUTION AUTHORIZING THE AWARD OF BID TO AND THE EXECUTION OF THE CONTRACTS WITH DIXIE CONSTRUCTORS, INC. FOR THE PLUMBING AND GAS FITTINGS AND ACCESSORIES FOR THE WALL STREET AND RANKIN AVENUE PARKING GARAGE PROJECTS

Mayor Bissette said this resolution will authorize the City Manager to execute a contract with Dixie Constructors, Inc. for the plumbing and gas fittings and accessories for the Wall Street and Rankin Avenue Parking Garage Projects in the amount of $121,000.

Upon motion of Councilman Michalove, seconded by Councilman Tisdale, Resolution No. 87-128 was unanimously adopted.

Complete text of Resolution No. 87-128 will be found in Resolution Book No. 16 at page 388.

ADJOURNMENT

Upon motion of Councilman Tisdale, seconded by Vice-Mayor Frank, the meeting adjourned at 12:50 p. m.

W. Louis Bissette MAYOR William F. Wolcott CITY CLERK

Tuesday - July 21, 1987 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Kenneth M. Michalove, Norma T. Price, and George Tisdale, Wilhelmina Bratton; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Walter Boland.

INVOCATION

The invocation was given be Vice-Mayor Frank.

APPROVAL OF MINUTES OF MEETING OF JULY 14, 1987

Mayor Bissette announced the approval of the minutes of the meeting of July 14, 1987 as submitted.

I. PROCLAMATIONS

A. "Buddy Poppy Days" - July 31, 1987 - August 1, 1987

Mayor Bissette read a proclamation proclaiming July 31, 1987 and August 1, 1987 as "Buddy Poppy Days."

Mayor Bissette presented the proclamation to Katherine Synder and Mrs. Betty Ingle with the VFW Post 891.

II. PUBLIC HEARINGS:

None Scheduled

III. OLD BUSINESS

A. Ordinance No. 1639 - Second reading of Ordinance No. 1639, an ordinance amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville" as amended rezoning property located at 243 Emma Road from LI Light Industrial District to CH Commercial Highway District.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held June 4, 1987, considered the petition of Mr. Ernest Porshia that Lots 23 and 24, Sheet 37, Ward 6, be rezoned from LI Light Industrial District to CH Commercial Highway District. The property is located at 243 Emma Road. After review and discussion, the Commission voted to recommend to City Council that Lots 23 and 24, Sheet 37, Ward 6,

be rezoned from LI Light Industrial District to CH Commercial Highway District. This ordinance passed on first reading on July 14, 1987.

On a roll call vote of 6-0, Ordinance No. 1639 passed on second reading.

Councilman Michalove moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1639. This motion was seconded by Councilman Tisdale and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1639 passed on third and final reading.

Ordinance Book No. 11 at page 143.

B. Ordinance No. 1640 -Second reading of Ordinance No. 1640, an ordinance amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville" as amended to include provision for amortization of nonconforming signs.

Mayor Bissette said the Asheville Planning and Zoning Commission on June 3, 1987, considered City Council's request to investigate the feasibility of amending Ordinance #322 to include provision for amortization of nonconforming signs. This ordinance passed on first reading on July 14, 1987.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Ralph Bishop requested a copy of the ordinance.

An unidentified man spoke in support of the ordinance stating that the Senate Judiciary Committee is to consider a proposed bill next week to provide that municipalities compensate sign companies when municipalities impose amortization on nonconforming signs. He said it is important that the City of Asheville preserve their option to exercise their own police powers rather than allowing the state to impose regulations. He said in his opinion amortization of nonconforming signs is not the taking of one's property or an intrusion on private property. He said courts have refused to hear cases on amortization of nonconforming signs. He said Council is within their right to impose amortization.

Mrs. Samuel Brigman, 394 Vanderbilt Road, spoke in support of the ordinance.

Mrs. Maggie Brockman, 372 Charlotte Street, speaking on behalf of the Grove Park/Sunset Association, supported the proposed ordinance as written.

Jim Cairnes, 209 Cumberland Avenue, spoke in support of the ordinance.

Ralph Bishop spoke in opposition to the ordinance.

Barbara McGwen, Biltmore Avenue, spoke in support of the ordinance.

John Burge, 706 RiverRidge Drive, spoke in support of the ordinance stating that signs must be controlled to improve the visual quality of life.

Lloyd Kirk, Forest Manor Motor Lodge, Hendersonville Road, said the ordinance would place a tremendous financial burden on businesses. He suggested that Council amend the ordinance or at least identify nonconforming signs giving public notice of such violations.

Beth Bryant, Attorney representing Lloyd Kirk and similar land owners, spoke in opposition to the ordinance. She also cited N.C.G.S. 160A-385 and 386 requesting that Council notify all property owners that would be affected and that they be given an opportunity to file a protest petition in opposition to the ordinance.

Mike Summey, Route 4, Asheville, owner of Summey Outdoor Advertising, spoke in opposition to the ordinance. He said the cost to bring all nonconforming signs into compliance should be borne by all individuals. He said if Council is going to amortize signs then they should also amortize all nonconforming uses. He said he was concerned that Council has not notified individuals that would be affected by the ordinance. He said according to the survey conducted by the Planning Department there were only a few billboards that were nonconforming. He said he felt the current sign ordinance has proved effective for the past ten (10) years.

David Gantt, 82 Church Street, spoke in support of the ordinance.

Garrett Lowe, owner and operator of Shoney's Restaurants, said signs are very important to businesses. He asked which of the Shoney's signs would be nonconforming.

Councilman Bratton moved that Council go into executive session to discuss a legal matter. This motion was seconded by Councilman Tisdale and carried unanimously.

Vice-Mayor Frank said she felt it is important for Council to take action to improve the City of Asheville.

Councilman Tisdale suggested that Council establish a Sign Commission, consisting of nine (9) members representing various aspects, proponents and opponents, of the sign issue to deal with future federal, state, and local legislation regarding signs.

On a roll call vote of 6-0, Ordinance No. 1640 passed on second reading.

Councilman Michalove moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1640. This motion was seconded by Vice-Mayor Frank and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1640 passed on third and final reading.

Ordinance Book No. 11 at page 144 and 145.

Mayor Bissette said the concept of establishing a Sign Commission was discussed in Pre-Council and it was the consensus of Council to establish such a commission. He said the Commission would be established within the next thirty (30) days and a report given back to members of Council within a reasonable period of time. He said members of Council are aware, as well as representatives from the sign companies, that there is a nine (9) months statute of limitations to file a lawsuit relative to this ordinance.

Mayor Bissette requested that the City Manager look into whether or not the current sign ordinance is being properly enforced.

Upon inquiry of Mike Summey, Mayor Bissette said everyone affected by this ordinance would eventually be notified.

IV. NEW BUSINESS:

A. Ordinance No. 1642 - Budget Ordinance amendment to appropriate funds for the Victims of Crime Grant.

SUMMARY: This budget ordinance will amend the annual operating or capital projects budget to recognize revenue and appropriate funding received from the Victims of Crime Grant.

On a roll call vote of 6-0, Ordinance No. 1642 passed on first and final reading.

Ordinance Book No. 11 - Page 147

V. CONSENT:

A. Resolution No. 87-129 - Resolution authorizing the Purchasing Director to dispose of personal property by private sale.

SUMMARY: This resolution will authorize the Purchasing Director to dispose of accumulated broken and other nonuseable fire hydrants and metals (cast iron, brass, copper, and other assorted scrap metals) located in the Water Maintenance Division.

Resolution Book 16 - Page 389

B. Resolution No. 87-130 - Resolution directing the City Clerk to advertise an offer for the purchase of city-owned property located on Whitson Road.

SUMMARY: The City of Asheville has received an offer for the purchase of a mobile home and attachments and

detached garage located on the northwest corner of Whitson Road and Arco Road, further known as 20 Whitson Road. The offer is in the amount of $700. This resolution will authorize the private negotiation and sale of said property, which property was purchased for right-of-way needs for the Arco Road Bridge Replacement Project.

Resolution Book 16 - Page 390

C. Resolution No. 87-131 - Resolution authorizing the closing of certain streets in downtown Asheville relative to the Bele Chere Festival.

SUMMARY: July 24, 25, and 26, 1987, have been established as the dates of the Annual Bele Chere Festival for the City of Asheville. This resolution will authorize the City Manager to close certain streets in downtown Asheville during the times of the festival.

Resolution Book 16 - Page 391, 392

D. Resolution No. 87-132 - Resolution authorizing the Mayor to execute Amendment No. 1 to Grant Agreement for Project Number 3-37-0005-01 at Asheville Regional Airport.

SUMMARY: This resolution will authorize the Mayor to execute amendment No. 1 to grant agreement No. 3-37-0005-01 with the Federal Aviation Administration to increase the maximum grant obligation by $10,664 to cover certain cost overruns in the grant for planning and development, other than land. The City of Asheville and County of Buncombe are cosponsors of the grant agreement and the FAA requires each sponsor to execute said amendment to the grant agreement.

Resolution Book 16 - Page 393

E. Resolution No. 87-133 - Resolution supporting "Dedication '87", a summer-long celebration that will culminate with the opening of the final section of the Blue Ridge Parkway.

SUMMARY: This resolution will support "Dedication '87" to make the nation and world more aware and appreciative of the vast natural, recreational, and cultural resources to be found on the Blue Ridge Parkway and in the twenty-nine counties through which it passes. A dedication program has been scheduled for September 11, 1987, the 52nd anniversary of the beginning of the Parkway construction.

Resolution Book 16 - Page 394

F. Scheduling of public hearing relative to proposed Biltmore Business Park to be located on Fairview Road for August 11, 1987.

SUMMARY: The Asheville Planning and Zoning Commission on July 1, 1987, reviewed and approved the project subject to:

1. Recommendation of Fire Department that water line be looped to Phase II.

2. Compliance with Erosion Control Ordinance; and

3. Directing more of the storm water away from Stoner Road and toward the railroad.

G. Scheduling of public hearing relative to the proposed Long Street/Syrlin Street Condominium project for August 11, 1987.

SUMMARY: The Asheville Planning and Zoning Commission reviewed the project on July 1, 1987, and recommended denial because of traffic impact on the neighborhood.

Any approval by City Council should be contingent upon:
1. Board of Adjustment granting a width variance on buffer on southern property line; and
2. Compliance with Erosion Control Ordinance.

Upon motion of Councilman Michalove, seconded by Vice-Mayor Frank, the consent agenda was unanimously approved.

LETTER OF INDEMNIFICATION - WRIGHT MOTOR LINES - LOAN OF FLAT BED TRUCKS

Councilman Michalove moved to authorize the City Manager to sign a letter of indemnification with Wright Motor Lines for the loan of two (2) flat bed trucks for use during Bele Chere. This motion was seconded by Vice-Mayor Frank and carried unanimously.

CLAIMS - RAYMOND GLENN (WATER)- EDWIN SLUDER (WATER) - JAMES LINDSEY (WATER)- RALPH COFFEY (PARKS) - DANIELLE ELLIS (SEWER) - JUANITA CLIFTON (SEWER)

The City Manager presented claims received from Raymond Glenn, Edwin Sluder, James Lindsey, Ralph Coffey, Danielle Ellis, and Juanita Clifton.

LAWSUITS - DARYL E. UNRUH AND WIFE, GRACE E. UNRUH V. CITY OF ASHEVILLE (ALLEGED INVALIDITY OF CHESTNUT-LIBERTY HISTORIC DISTRICT ORDINANCE)

The City Manager said the city was served with a lawsuit involving Daryl E. Unruh and wife, Grace E. Unruh v. City of Asheville regarding alleged invalidity of Chestnut-Liberty Historic District Ordinance.

RALPH BISHOP - LOTTERY SALES - ASHEVILLE POLICE DEPARTMENT

Ralph Bissette again spoke to members of Council relative to lottery sales in the City of Asheville and the Asheville Police Department.

ADJOURNMENT

Mayor Bissette adjourned the meeting at 5:20 p. m.

MAYOR

CITY CLERK

Tuesday - July 28, 1987 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Walter Boland, Kenneth M. Michalove, George Tisdale, and Wilhelmina Bratton; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Norma T. Price.

INVOCATION

The invocation was given by Councilman Walter Boland.

APPROVAL OF MINUTES - JULY 21, 1987

Mayor Bissette announced the approval of the minutes of the July 21, 1987 meeting as submitted.

I. PROCLAMATIONS:

A. Resolution No. 87-134 - Resolution in memoriam of Former University of North Carolina - Asheville Chancellor William Edward Highsmith.

Councilman Boland read the resolution which expressed Council's sorrow over the recent passing of Chancellor William Highsmith.

Upon motion of Councilman Boland, seconded by Councilman Michalove, Resolution No. 87-134 was unanimously adopted.

Resolution Book 16 - Page 395

Mayor Bissette presented the resolution to Mrs. Highsmith.

B. Resolution No. 87-135 - Resolution of appreciation to David A. Flippin, Executive Director, Asheville-Buncombe Insurance Advisory Committee.

Mayor Bissette read the resolution expressing appreciation to David A. Flippin for his services as Executive Director of the Asheville-Buncombe Insurance Advisory Committee. Mr. Flippin is resigning effective July 31, 1987.

Upon motion of Councilman Michalove, seconded by Vice-Mayor Frank, Resolution No. 87-135 was unanimously adopted.

Mayor Bissette presented the resolution to David A. Flippin.

Resolution Book 16 - Page 396

II. PUBLIC HEARINGS:

Mayor Bissette said the following public hearings would be opened and closed simultaneously and individuals would be allowed to comment on any of the areas proposed for annexation. He said N.C.G.S. require that the governing body hold a public hearing to receive public comments prior to annexing property into the corporate limits. He said department and division heads would be available to answer specific questions. He requested that individuals limit their comments to three (3) minutes.

A. Public hearing relative to the extension of municipal services into the area to the south of the existing corporate limits.

B. Public hearing relative to the extension of municipal services into the area lying to the west of Hendersonville Road.

C. Public hearing relative to the extension of municipal services into the area lying to the west of the existing corporate limits.

D. Public hearing relative to the extension of municipal services into a portion of the area generally known as the Oteen Area.

E. Public hearing relative to the extension of municipal services into a portion of the area generally known as the Haw Creek Area.

Mayor Bissette opened the public hearings at 4:09 p. m.

The City Clerk presented the notices to the public setting the time and dates for the public hearings and the affidavits of publication.

The City Manager said Council adopted a three year plan for annexation and the area presently under consideration is for the first year. He said Council has adopted resolutions of intent to annex and approved plans for services. He said three (3)

community meetings were held and staff met with rural fire departments relative to the proposed annexation.

He highlighted the North Carolina law relative to annexation requirements. He said the effective date of the proposed annexation would be August 31, 1988 with general services being provided by August 31, 1988, and water and sewer services provided by August 31, 1990. He said property owners would be billed in September, 1988 for 10/12 of taxes for the year 1988-1989. He said property owners should realize cost reductions in garbage fees, fire tax, fire insurance, and homeowner's fees. He said there would be no change in school districts.

He said all areas proposed for annexation meets the criteria outlined in the North Carolina General Statutes.

He briefly outlined the services that would be provided in each area.

The following individuals spoke in opposition to the proposed annexations:

Mr. Joe Pinkston, 32 Orchard Street, Enka Village
Mr. Melvin C. Thomason, 304 Cisco Road
Mr. John Travis, 66 Willowbrook Road
Mr. Gary Salice, 27 Deer Run Drive
Mr. Richard Dawston, Chunns Cove Road
Mr. Garland Wade, Post Office Box 1273, Skyland
Mr. Edward Pearce, 315 Azalea Road, Oteen
Ms. Joan Larson, 11 Deer Run Drive
Mr. Bob Holly, Overlook Road, Oak Forest
Resident of 170 Birch Lane, Royal Pines
Mr. Gary Justice, Skyland area
Mr. R. M. McClure, Mayfair Drive, Candler
Mr. R. J. Nichols, 101 Moody Avenue, Candler
Mr. Dan Galligher, Avery Creek
Ms. Barbara Melton, 15 Melton Drive, Haw Creek
Mr. J. C. Rich, Frances Asbury Road, West
Mr. Benny Reese, Crescent Street, Enka
Mr. Ned Fowler, P. O. Box 187, Candler
Mr. Ralph Bishop
Ms. Dorothy Davis-Dodge, 155 Patton Mountain Road
Ms. Mary Case Havner, Skyland area
Ms. Sentelle, 121 Pritchard, Enka
Captain John Barnett, Haw Creek
Mr. Harry Sitton, 310 Asbury Road
Resident of 210 Mark Trail, Woodside Hills
Mr. Bill Koons, 35 Westridge Drive, Oak Forest
Mr. Orville Nichols, 37 Keasler Road
Mr. David Messer, Keasler Road, Haw Creek
Resident of 46 Keasler Road, Haw Creek
Mr. George Sanders, Lake Drive, West area
Mr. Bill Henry, Starnes Cove Road
Mr. Greg Talman, Oak Forest
Resident of 1325 Sweeten Creek Road
Resident of 36 Oakdale Drive, Candler
Mr. Durward Lawrence, 126 Overlook Road
Dr. Glen Miller, 7 Oak Forest Drive

Mr. Rick McMahill, 4 Oak Wilde Drive, Oak Forest
Mr. Benny Reese, 1 Crescent Street, Enka Village,
presented a petition in opposition to the annexations.

Mayor Bissette thanked them for their comments and said Council would be considering the annexation ordinances on August 11, 1987.

Mayor Bissette closed the public hearing at 7:12 p. m.

CLAIMS - KOSTAS RANTZOS (SANITATION) - PAUL MCKINNON (PARKS) - PATSY MARTIN (POLICE)

The City Manager presented claims received from Kostas Rantzos, Paul McKinnon, and Patsy Martin.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

ADJOURNMENT

Upon motion of Councilman Tisdale, seconded by Councilman Bratton, the meeting adjourned at 7:20 p. m.

MAYOR

CITY CLERK

Tuesday - August 4, 1987 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Kenneth M. Michalove, Norma T. Price, George Tisdale, Wilhelmina Bratton and Walter Boland; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Wilhelmina Bratton.

I. PROCLAMATIONS:

A. **Asheville Swim-A-Cross Week - August 6-14, 1987 -- Lifeguard Competition and Celebrity Bellyflop Day - August 6, 1987.**

Mayor Bissette read the proclamation stating that the Asheville Area Red Cross has, for the past several years, conducted its annual Swim-A-Cross for the purpose of raising funds for the Asheville Chapter and to celebrate the millions of people nationwide who over the years have been taught to swim through the Red Cross and its many water safety programs. The week's activities will be kicked off by the Swim-A-Cross Lifeguard Competition and Celebrity Bellyflop Contest on the evening of August 6, 1987, at 6:00 p.m. at the Recreation Park Pool. This proclamation was requested by John Teeter, Chairman of Swim-A-Cross, and Mary Ritter, Promotion Director for the Asheville Area Red Cross.

Mayor Bissette presented the proclamation to John Teeter, Chairman of Swim-A-Cross.

B. **Proclamation proclaiming the month of August, 1987 as "Back-A-Boy Month"**

Mayor Bissette read a proclamation proclaiming the month of August, 1987 as "Back-A-Boy Month".

Mayor Bissette presented the proclamation to Rick Cristy, Executive Director of Boys Club and J. D. Jackson.

C. **Resolution No. 87-136 - Resolution expressing appreciation to the Pepsi-Cola Bottling Company of Asheville for the donation of a utility vehicle.**

Mayor Bissette said the Pepsi-Cola Bottling Company of Asheville has agreed to donate a beverage delivery truck to the Fire Department for use as a special purpose unit. This donated vehicle will prove very useful in transport of hazardous materials spill control equipment, as well as other specialized equipment used at major fires and emergencies. It will be of value not only to Asheville, but, through mutual aid agreements, to all of Buncombe County.

Upon motion of Councilman Price, seconded by Councilman Boland, Resolution No. 87-136 was unanimously adopted.

Resolution Book 16 - Page 397

II. PUBLIC HEARINGS:

A. **Public hearing relative to the site plan of the proposed expansion of the NCDOT Maintenance Complex on U. S. 74.**

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held June 10, 1987, reviewed a site plan of the proposed expansion of the NCDOT Maintenance Complex on U. S. 74. The site plan was prepared by Ellis, Naeyaert, Genheirmer, Associates, Inc. for the State and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project subject to compliance with the Erosion Control Ordinance.

Mayor Bissette opened the public hearing at 4:16 p. m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Patty Tallerday, with the Planning Department, said the North Carolina Department of Transportation proposal is for an office, maintenance, and storage building on a 52-acre tract which is owned by NCDOT.

Upon inquiry of Councilman Tisdale, Mr. Genheirmer, Architect for NCDOT, said the installation of a sidewalk where the property fronts U. S. 74 was not a part of the original plans and had not been addressed, however the installation of a sidewalk would be considered.

Mayor Bissette closed the public hearing at 4:20 p. m.

Councilman Boland moved to approve the site plan of the proposed expansion of the NCDOT Maintenance Complex on U. S. 74 subject to the conditions outlined by the Planning and Zoning Commission and further that NCDOT consider installing a sidewalk where NCDOT's property fronts U. S. 74. This motion was seconded by Councilman Michalove and carried unanimously.

III. OLD BUSINESS:

A. Continuation of public hearing relative to rezoning property located at 169 and 171 Druid Drive from R-3 Residential District to CH Commercial Highway District.

Mayor Bissette said the Asheville Planning and Zoning Commission considered the petition of Mr. Peter Wilson et al that Ward 6, Sheet 13, Lots 27 and 41 be rezoned from R-3 Residential District to CH Commercial Highway District. The property is located at 169 and 171 Druid Drive. After review and discussion, the Commission voted to recommend that the petition be denied and that the property remain as it is now zoned. The petitioner, Mr. Peter Wilson, has appealed the decision of the Planning and Zoning Commission, by letter dated June 8, 1987, and has requested that Council hold a public hearing relative to the rezoning request. This public hearing was continued from the July 14, 1987 meeting.

Julia Cogburn, with the Planning Department, said two homes are located on the property requested to be rezoned. She said Mr. Matthews, owner of one parcel would like to expand his woodworking operation and Mr. Wilson, owner of the other parcel, would like to have office buildings on this property. She said several property owners on Laurel Loop had expressed objections to the rezoning.

Mr. Peter Wilson, 322 Montford Avenue, petitioner for the rezoning, spoke in support of the rezoning of this property. He said the lower end of Druid Drive, where the property is proposed to be rezoned is in a run down condition and in his opinion any improvements in the location would be beneficial to the neighborhood.

Mr. Jack Keenan, 164 Laurel Loop, spoke in opposition to the rezoning stating that Laurel Loop is a small residential area with a narrow two-lane road. He said in his opinion Druid Drive and Laurel Loop can not handle increased traffic.

Councilman Price pointed out that there are provisions in the Zoning Ordinance which would allow the petitioners to use their property as proposed under the Conditional Use Provisions in the R-3 Residential classification.

Upon inquiry of Councilman Tisdale, Julia Cogburn said letters were received by the Planning Department from seven (7) property owners on Laurel Loop objecting to the rezoning.

Mayor Bissette noted that if the property is rezoned to CH Commercial Highway District, the property could be used for a number of uses. He said if the property

remains zoned R-3 Residential, the petitioners could still utilize their property under the Conditional Use Provisions.

Mayor Bissette closed the public hearing at 4:31 p. m.

Councilman Price moved to uphold the Planning and Zoning Commission's recommendation to deny the rezoning request. This motion was seconded by Councilman Michalove and carried unanimously.

B. **Continuation of public hearing relative to rezoning property in the area north of Hilliard, west of Clingman and southeast of West Haywood Street to Commercial Service District.**

Ordinance No. 1643 - An Ordinance amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville," as amended, petition of Mr. Daniel Murphy et al property located at corner of Clingman and Hilliard.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held June 3, 1987, considered the rezoning petition, plus lots in an area North of Hilliard, West of Clingman and Southeast of West Haywood Street for possible inclusion in the Commercial Service District. The Commission voted to recommend to City Council that Ward 4, Sheet 3, Lots 22, 26, 27, 28, 29, 31, 32-1/4, 34, 36, 36-1/4, 37, 38, 237, 240, 241, and 252 be rezoned from R-3 Residential District to CS Commercial Service District. This public hearing was continued from the July 14, 1987 meeting. He said the public hearing was continued in order to give the Planning staff an opportunity to meet with the residents of the area that did not understand the ramifications of rezoning.

Julia Cogburn, with the Planning Staff, said a meeting was held on July 31, 1987 with several residents in the area. She said the effects of the rezoning were explained as well as the allowable uses within the zoning classification. She said in her opinion all the residents left the meeting satisfied with the rezoning.

Upon inquiry of Councilman Price, Julia Cogburn said pursuant to the Buffering Ordinance, buffering would be required between a commercial use and a residential use.

Mayor Bissette closed the public hearing at 4:35 p. m.

Councilman Price moved for the adoption of Ordinance No. 1643. This motion was seconded by Vice-Mayor Frank.

On a roll call vote of 7-0, Ordinance No. 1643 passed on first reading.

C. **Continuation of a public hearing relative to rezoning property located at Haywood Road and Nevada Avenue from R-3 Residential District to CS Commercial Service District.**

Ordinance No. 1644 - An Ordinance amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville," as amended, petition of Mr. Nick Apostolopoulos property located on Haywood Road.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held May 13, 1987, reviewed and recommended that a portion of Lot 2-1/4, Sheet 11, Ward 5, be rezoned from R-3 Residential District to CS Commercial Service District. This public hearing was continued from the July 14, 1987 meeting.

Mayor Bissette requested to be excused from voting and participation on this rezoning request since his law firm represents the petitioner.

Councilman Michalove moved to excuse Mayor Bissette from vote and participation on the rezoning request of Mr. Nick Apostolopoulos. This motion was seconded by Councilman Tisdale and carried unanimously.

Mayor Bissette turned the meeting over to Vice-Mayor Frank.

Julia Cogburn, with the Planning Department, said a valid protest petition had been filed which would require a three-fourths favorable vote of the members of Council voting on the issue in order for the approval of the rezoning request. She also noted that a 12' buffer would be required between the adjoining residential area and the Commercial Service District.

Gary Rowe, Attorney representing Nick Apostolopoulos, questioned the validity of the protest petition filed with the Planning Division since the petition was directed at the rezoning of the entirety of Lot 2-1/4 and in reality 99% of the lot is presently zoned Commercial Service and the petitioner is only requesting the remaining portion to be zoned Commercial Service. He also noted that it is his understanding that eight (8) property owners had withdrawn their names from the protest petition.

Nick Apostolopoulos, petitioner, spoke in support of the rezoning stating that the rezoning would allow a better use of the property for a restaurant. He said a retaining wall and fence would be constructed along his property line and the adjoining property.

Mayor Bissette closed the public hearing at 5:03 p. m.

Councilman Tisdale moved for the adoption of Ordinance No. 1644. This motion was seconded by Councilman Boland.

On a roll call vote of 6-0, Ordinance No. 1644 passed on first reading.

IV. NEW BUSINESS

None Scheduled

V. CONSENT AGENDA

A. Approval of bids received for Disposal Parcels 67, 99, 115, and 116 in the East End/Valley Street Community Improvement Project and Disposal Parcels 96B.2 and 99 in the East Riverside Urban Renewal Project.

SUMMARY: The Housing Authority has tentatively accepted the following bids for certain disposal parcels in the East Riverside Urban Renewal Project and the East End/Valley Street Community Improvement Project:

B. Resolution No. 87-137 - Resolution authorizing the City Manager to execute an amendment to the contract between the City of Asheville and Delta Dental Plan of North Carolina, Inc. for the purpose of extending dental benefits to the staff of Asheville/Buncombe Community Relations Council.

SUMMARY: This resolution will authorize the extension of City dental benefits to the staff of the Asheville-Buncombe Community Relations Council. Council to pay full cost of employee's coverage and employees to pay full cost of family coverage.

Resolution Book 16 - Page 398

C. Scheduling public hearing relative to site plan of the proposed expansion of St. Marks Lutheran Church at 10 North Liberty Street for August 18, 1987.

SUMMARY: The Asheville Planning and Zoning Commission at a meeting held April 8, 1987, reviewed a site plan of the proposed expansion of St. Marks Lutheran Church at 10 North Liberty Street. The site plan was prepared by Wood and Cort, Architects, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to approve the project subject to the following conditions: 1. That a variance be granted to permit a side setback of 6" instead of the required 8'; 2) That a variance be granted to permit 45 parking spaces instead of the required 56; 3) That a variance be granted to reduce the buffering on the north property line; and 4) Compliance with the Erosion Control Ordinance.

D. Resolution No. 87-138 - Resolution appointing member to the Asheville-Buncombe Historic Resources Commission.

SUMMARY: This resolution will appoint Mr. John Nilsson, 165 Vermont Avenue, Asheville, North Carolina, 28806, as a member of the Asheville-Buncombe Historic Resources Commission for a three (3) year term, term expiring July 1, 1990, or until his successor has been duly appointed and qualified.

Resolution Book 16 - Page 399

Upon motion of Councilman Michalove, seconded by Councilman Price, the consent agenda was unanimously approved.

Resolution No. 87-139 - Resolution supporting selection of Asheville for the site of the 1988 Joint Annual Conference of the North Carolina Firemens and Fire Chiefs Association.

Chief John Rukavina said representatives of the Asheville Fire Department and the Buncombe County Firemens Association have been approached regarding the possibility of Buncombe County's fire departments serving as hosts for the 1988 North Carolina Firemens/Fire Chiefs Association Joint Conference in Asheville. If Asheville is selected as the Conference site, approximately 1,000 visitors could be expected for the three-day conference. He said this resolution will demonstrate the City Council's support of a bid for this Conference.

Upon motion of Councilman Price, seconded by Vice-Mayor Frank, Resolution No. 87-139 was unanimously adopted.

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TENSION OF WATER AGREEMENT

Mayor Bissette announced that the City Council and Buncombe County Commissioners have reached an agreement in principle for a five (5) year extension of the Asheville-Buncombe Water Agreement.

HAROLD BLANKENSHIP - 51 HARNETT STREET - WATER PROBLEM

Jack Cloninger, Attorney representing Harold Blankenship at 51 Harnett Street, said his client is having an extreme water problem created by the construction of the Vance Elementary School. He said he had talked with Tom Tarrant in the City Engineering Department and was informed that plans and specifications for the correction of this problem are complete and would be advertised for bid. He said it seems that the priority for this project keeps being shifted to a low priority. He said every time it rains his clients property is flooded and his driveway washed out.

Mayor Bissette requested the City Manager to look into Mr. Blankenship's problem and to inform Mr. Blankenship as to the status of this project.

PETITION RELATIVE TO ZONING STUDY - BEAVER LAKE

Tom Bell, Attorney, representing himself and other property owners in the Lake View Park area, submitted the following petition:

PETITION
ARTICLE II; SECTION 30-11-1 (c)
ASHEVILLE ZONING ORDINANCE

We the undersigned property owners in Lake View Park or Beaver Lake do hereby request that the City Council initiate a special zoning study to determine if a change in the comprehensive development plan of the City of Asheville is warranted for that area adjoining Beaver Lake and upon which a retail shopping center has been proposed for construction. We are of the opinion that the character of this area has changed significantly and such study is warranted at this time.

Mr. Bell said the petition is signed by 51% of the property owners in the vicinity of Beaver Lake as required by Section 30-11-1 (c). He said the petition contains the signatures of 229 families in the Beaver Lake area. He said the last developmental plan for the Beaver Lake area was in 1947 and the area has since changed tremendously. He said the area is now heavily populated with homes and has commercially exploded. He said the area has a very heavy traffic use with the main highway cutting down from four (4) lanes to two (2) lanes. He said the residential area is seriously affected by the heavy traffic. He said the area has had major changes since the last developmental plan. He said Beaver Lake is in serious danger of loosing scenic beauty because of proposed commercial development in the area. He said the residents feel it is vital to protect this area.

Upon inquiry of Mayor Bissette, Mr. Bell said the residents are referring to a proposed retail shopping center proposed by Mr. George Beverly.

Mayor Bissette requested to be excused from participation and vote on the petition since his law firm represents Mr. Beverly.

Councilman Tisdale moved to excuse Mayor Bissette from vote and participation relative to the petition. This motion was seconded by Councilman Price and carried unanimously.

Councilman Tisdale noted that his personal property adjoins the property proposed for commercial development by Mr. Beverly.

Councilman Price suggested that the Planning staff review the petition as to validity and make a recommendation to Council.

Mr. George Beverly, developer, requested that Council not take action on the petition at this time since he felt the petition was directly aimed at his proposed project and that Council wait until the Planning and Zoning Commission makes their recommendation relative to the site plan. He said the Planning and Zoning Commission is scheduled to review the site plan next week. He said in an effort to cooperate with the residents of the area a meeting was held at Grace Covenant Church to share his proposed plans. He said his plans are for 30,000 ft. of specialty shops which would compliment the neighborhood.

E. H. Lederer, Acting Chairman of the Lake View Park Commission, spoke in support of the petition and requested that Council consider the petition at this meeting.

Karen Fields, 109 Westwood Road, said her property overlooks Beaver Lake and would be seriously affected by the proposed shopping center. She spoke in support of the petition.

Upon inquiry of Vice-Mayor Frank, Corporation Counsel Slawter said Council has the authority to act on the petition if they so desire.

Councilman Tisdale moved that no action be taken on the petition presented and that Council wait on a recommendation from the Planning and Zoning Commission relative to the proposed commercial development. This motion was seconded by Councilman Bratton.

After discussion, Councilman Michalove moved to amend Councilman Tisdale's motion to add that a copy of the petition submitted be forwarded to the Planning and Zoning Commission. This motion was seconded by Councilman Boland and carried unanimously.

On a voice vote, Councilman Tisdale's motion passed unanimously.

RALPH BISHOP - LOTTERY SALES

Ralph Bishop again spoke to members of Council relative to lottery sales in the City of Asheville.

CLAIMS - DAN KELLY (WATER) - GEORGIA JEFFERSON (PARKS) - JOHN LAYMAN (WATER) - DAVID CUTSHALL (STREETS)

The City Manager presented claims received from Dan Kelly, Georgia Jefferson, John Layman, and David Cutshall.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

ADJOURNMENT

Upon motion of Vice-Mayor Frank, seconded by Councilman Price the meeting adjourned at 6:20 p.m.

MAYOR

CITY CLERK

Tuesday - August 11, 1987 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Kenneth M. Michalove, Norma T. Price, George Tisdale, Wilhelmina Bratton and Walter Boland; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Michalove.

APPROVAL OF MINUTES

Mayor Bissette announced the approval of minutes of the July 28, 1987 meeting and the August 4, 1987 meeting as submitted.

I. PROCLAMATIONS:

Mayor Bissette proclaimed August 16 and 17, 1987 as "Harmonic Convergence" at the request of the Planetary Commission.

Gloria Free, member of the Planetary Commission, spoke relative to the events being held August 16 and 17, 1987.

II. PUBLIC HEARINGS:

A. Public hearing relative to proposed Biltmore Business Park to be located on Fairview Road.

SUMMARY: The Asheville Planning and Zoning Commission on July 1, 1987, reviewed and approved the project subject to:

1. Recommendation of Fire Department that water line be looped to Phase II.

2. Compliance with Erosion Control Ordinance; and

3. Directing more of the storm water away from Stoner Road and toward the railroad.

Mayor Bissette opened the public hearing at 4:16 p. m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Planning and Zoning Commission recommended approval subject to conditions outlined by Mayor Bissette. He said the project is proposed for Fairview Road and is surrounded by Industrial zoning. He said the developer proposes an office warehouse park on a 14 acre tract, consisting of five (5) buildings with 10,000 square feet each and ten (10) units per building. He said the developer was approached relative to participating in the installation of sidewalks along the front property line of this project. He said the developer had indicated that there might be a problem with installing sidewalks due to an open concrete channel along the roadway and due to the topography of the land.

Larry Traber, Architect, said the entrance to the Park would be from Fairview Road which would be landscaped. He said he felt it would be difficult to install sidewalks along the front property with the open concrete channel. He said in his opinion the City should address the widening of Fairview Road. He said he would talk with his client relative to participating in the installation of sidewalks. He said he did not think his client would object to allocating a right-of-way of up to 15' for the widening of Fairview Road or the installation of sidewalks. He said the project would be buffered in accordance with the Buffer Ordinance. He said there would be an identification sign on the property.

Ken Black, adjoining property owner, requested that the developer buffer the park from the residential area with 7' - 8' white pine trees. He also requested that the lighting of the parking lot area be installed as to not interfere with the privacy of the residential area.

Mr. Traber noted that environmental "down" lighting would be used for the parking area in an effort to keep the lighting away from the residential area. He also indicated that the developer would agree to installing 6' white pine trees as a buffer.

Johnny Springs, Stoner Road, spoke relative to the water from the project being diverted from Stoner Road. He also commented relative to a drainage problem of water coming from Fairview Road onto Stoner Road.

Council requested that the City Manager look into the problem of the water coming from Fairview Road onto Stoner Road and advise Mr. Springs if anything can be done to correct the problem.

Councilman Price suggested that the lighting plan be submitted and reviewed by the Planning staff.

Larry Traber requested that Council waive the condition specified by the Planning and Zoning requiring that the water line be looped in Phase II of the project until the water pressure is determined. He said this could be decided later when water pressure is determined and prior to Phase II of the project.

Mayor Bissette closed the public hearing at 4:50 p.m.

Councilman Tisdale moved to approve the site plan for Biltmore Business Park to be located on Fairview Road subject to the recommendations of the Planning and Zoning Commission and further that the Developer be required to install environmental down lighting in the Parking Area and that the lighting plan be submitted and reviewed by the Planning Staff; that 6' white pines be planted for buffering; that the area behind Stoner Road remain wooded; that Phase I be approved without the water line being looped and that this stipulation be reviewed by the Fire Department prior to the construction of Phase II. This motion was seconded by Councilman Price and carried unanimously.

B. **Public hearing relative to the proposed Long Street/Syrlin Street Condominium Project.**

SUMMARY: The Asheville Planning and Zoning Commission reviewed the project on July 1, 1987, and recommended denial because of traffic impact on the neighborhood.

(Any approval by City Council should be contingent upon:
1. Board of Adjustment granting a width variance on buffer on southern property line; and
2. Compliance with Erosion Control Ordinance).

Mayor Bissette opened the public hearing at 4:55 p. m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Planning Director, said the developer requested that the public hearing be continued for two (2) weeks.

Councilman Michalove moved to continue the public hearing relative to Long Street/Syrlin Street Condominium Project until August 25, 1987 without further advertisement. This motion was seconded by Vice-Mayor Frank and carried unanimously.

III. OLD BUSINESS:

A. **Ordinance No. 1643 - Second reading of Ordinance No. 1643, an ordinance amending Ordinance No. 322, being the Zoning Ordinance for the City of Asheville, as amended rezoning property in the area north of Hilliard, west of Clingman and southeast of West Haywood Street to Commercial Service District.**

SUMMARY: The Asheville Planning and Zoning Commission at a meeting held June 3, 1987, considered the rezoning petition, plus lots in an area North of Hilliard, West of Clingman and Southeast of West Haywood Street for possible inclusion in the Commercial Service District. The Commission voted to recommend to City Council that Ward 4, Sheet 3, Lots 22, 26, 27, 28, 29, 31, 32-1/4, 34, 36, 36-1/4, 37, 38, 237, 240, 241, and 252 be rezoned from R-3 Residential District to CS Commercial Service District.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1643 passed on second reading.

B. **Ordinance No. 1644 - Second reading of Ordinance No. 1644, an ordinance amending Ordinance No. 322, being the Zoning Ordinance for the City of Asheville, as amended rezoning property located at Haywood Road and Nevada Avenue from R-3 Residential District to CS Commercial Service District.**

SUMMARY: The Asheville Planning and Zoning Commission at a meeting held May 13, 1987, reviewed and recommended that a portion of Lot 2-1/4, Sheet 11, Ward 5, be rezoned from R-3 Residential District to CS Commercial Service District.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1644 passed on second reading.

C. **Ordinance No. 1645 - Ordinance to extend the corporate limits of the City of Asheville to an area south of the existing corporate limits under the authority granted by Part 3, Article 4A, Chapter 160A of the General Statutes of North Carolina.**

SUMMARY: All legal requirements have been met in order for Council to consider an ordinance to extend the corporate limits to an area south of the existing corporate limits.

Resolution No. 87-140 - Resolution amending the report of plans for extension of City Services into the area to the south of the existing corporate limits proposed for annexation.

The City Manager said there was a need to amend the report of plans for extension of the services into the area to the south to reflect an increase in water and sewer lines for the area.

Upon motion of Councilman Price, seconded by Councilman Michalove, Resolution No. 87-140 was unanimously adopted.

Resolution Book 16 - Page 400

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety. He said any individual requesting a copy of the ordinance will be furnished one at no cost.

Councilman Michalove moved for the adoption of Ordinance No. 1645. This motion was seconded by Councilman Boland.

On a roll call vote of 7-0, Ordinance No. 1645 passed on first reading.

D. Ordinance No. 1646 - Ordinance to extend the corporate limits of the City of Asheville to an area lying to the west of Hendersonville Road under the authority granted by Part 3, Article 4A, Chapter 160A of the General Statutes of North Carolina.

SUMMARY: All legal requirements have been met in order for Council to consider an ordinance to extend the corporate limits to an area lying to the west of Hendersonville Road.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety. He said any individual requesting a copy of the ordinance will be furnished one at no cost.

Ralph Bishop spoke in opposition to the annexation ordinances.

Councilman Price moved for the adoption of Ordinance No. 1646. This motion was seconded by Councilman Boland.

On a roll call vote of 7-0, Ordinance No. 1646 passed on first reading.

E. Ordinance No. 1647 - Ordinance to extend the corporate limits of the City of Asheville to a portion of the area

generally known as the Oteen Area under the authority granted by Part 3, Article 4A, Chapter 160A of the General Statutes of North Carolina.

SUMMARY: All legal requirements have been met in order for Council to consider an ordinance to extend the corporate limits to an area generally known as the Oteen Area.

Resolution No. 87-141 - Resolution amending the report of plans for extension of City Services into the area proposed for annexation which is generally known as the Oteen Area.

The City Manager said there was a need to amend the report of plans for extension of the services into the area proposed for annexation which is generally known as the Oteen Area to reflect a reduction in water and sewer lines for the area.

Upon motion of Councilman Price, seconded by Vice-Mayor Frank, Resolution No. 87-141 was unanimously adopted.

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Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety. He said any individual requesting a copy of the ordinance will be furnished one at no cost.

Vice-Mayor Frank moved for the adoption of Ordinance No. 1647. This motion was seconded by Councilman Price.

On a roll call vote of 7-0, Ordinance No. 1647 passed on first reading.

F. Ordinance No. 1648 - Ordinance to extend the corporate limits of the City of Asheville to a portion of the area generally known as the Haw Creek Area under the authority granted by Part 3, Article 4A, Chapter 160A of the General Statutes of North Carolina.

SUMMARY: All legal requirements have been met in order for Council to consider an ordinance to extend the corporate limits to an area generally known as the Haw Creek Area.

Resolution No. 87-142 - Resolution amending the report of plans for extension of City Services into the area proposed for annexation which is generally known as the Haw Creek Area.

The City Manager said there was a need to amend the report of plans for extension of the services into the area proposed for annexation which is generally known as the Haw Creek Area to reflect a reduction in the boundaries to be annexed, which would exclude Mr.

Thomason's property. This amendment changes the calculations used for qualifying the area for annexation; however, the amended area proposed for annexation still meets the criteria for annexation. He said the amended plan would also reflect an increase in sewer lines for the area.

Upon motion of Vice-Mayor Frank, seconded by Councilman Price, Resolution No. 87-142 was unanimously adopted.

Resolution Book 16 - Page 402

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety. He said any individual requesting a copy of the ordinance will be furnished one at no cost.

Vice-Mayor Frank moved for the adoption of Ordinance No. 1648. This motion was seconded by Councilman Michalove.

On a roll call vote of 7-0, Ordinance No. 1648 passed on first reading.

G. **Ordinance to extend the corporate limits of the City of Asheville to an area to the west of the existing corporate limits under the authority granted by Part 3, Article 4A, Chapter 160A of the General Statutes of North Carolina.**

SUMMARY: All legal requirements have been met in order for Council to consider an ordinance to extend the corporate limits to an area to the west of the existing corporate limits.

The City Manager recommended that the Ordinance annexing property to the west of the existing corporate limits be considered at next week's meeting. He said staff has recommended reducing the area proposed for annexation to exclude a large area of vacant land belonging to BASF, the Enka Village, and property owned by Southeastern Container Company. He said the description and plan for services are in the process of being revised to reflect these changes. He said, however, two (2) readings of the Ordinance would be needed at the August 18, 1987 meeting.

Councilman Michalove requested that the City Manager inform Council as to the various effects the annexation would have on property owners in the area such as taxes, sewer tax, etc.

IV. NEW BUSINESS:

A. **Resolution No. 87-143 - Resolution authorizing the Mayor of the City of Asheville to execute an amendment to the Memorandum of Agreement with the North Carolina Archives and History and the National Advisory Council on Historic Preservation.**

SUMMARY: The City has determined that the rehabilitation of the Plaza Theatre, located at 2 Biltmore Avenue, is no longer economically feasible due to the lack of structural integrity and inadequate fulfillment of public safety and code requirements. The Advisory Council on Historic Preservation is allowing the demolition of the Plaza Theatre. This action will require an amendment to the Memorandum of Agreement with the North Carolina Archives and History.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Vice-Mayor Frank, seconded by Councilman Price, Resolution No. 87-143 was unanimously adopted.

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APPROVAL OF WATER AGREEMENT

Vice-Mayor Frank moved that the Mayor and members of Council be authorized to sign a Water Agreement Extension, after the final agreement is reviewed and clarified by the Mayor, City Attorney, and City Manager. This motion was seconded by Councilman Michalove and carried unanimously.

RESOLUTION OF APPRECIATION - ALTERNATIVES FOR ASHEVILLE

Councilman Price requested that a resolution of appreciation be prepared for all city staff that helped with the Alternatives for Asheville 2010 Plan.

REPORT BY COUNCILMAN TISDALE - ASHEVILLE CABLEVISION FRANCHISE FEES

Councilman Tisdale reported that during the Asheville Cablevision Commission meeting on Monday, August 10, 1987, Asheville Cablevision presented a check to the City of Asheville for franchise fees for the period January - June, 1987. He said a total of $133,061.17 has been presented to the City for July, 1986 - June, 1987. He said a total of $36,442.94 has been presented to the County for July, 1986 - June, 1987. He said this represents a considerable increase from previous years.

NORTH CAROLINA FIREMENS AND FIRE CHIEFS ASSOCIATION

The City Manager noted that the 1988 Joint Annual Conference of the North Carolina Firemens and Fire Chiefs Associations will be held in Asheville.

COUNCILMAN BRATTON - REPORT ON RECREATION ACTIVITIES FOR TEENS

Councilman Bratton thanked the City Manager and Assistant City Manager for the report of activities planned by the City for young adults. She said she felt the activities planned was very good and represents all areas of the City. She said it is very important to get this information to the young adults.

CLAIMS - HAROLD FETTY (WATER) - BILL KELLEY (WATER) - RANDALL MCDARIS (STREETS) - MELVIN MOORE, JR. (SEWER) - ANNIS DEMOS - (SEWER)

The City Manager presented claims received from Harold Fetty, Bill Kelley, Randall McDaris, Melvin Moore, Jr., and Annis Demos.

Mayor Bissette presented the claims to the Corporation Counsel for investigation and recommendation.

LAWSUITS - (KERRY A. FRIEDMAN, JOHN DAVID ROUNTREE, SANDRA RAE ROUNTREE, WILLIAM KLODT, NANCY KLODT, WILLIAM SABO, AND THERESA SABO V. BOARD OF ADJUSTMENTS OF THE CITY OF ASHEVILLE AND JOHN C. LETTERLE AND BETSY LETTERLE (APPEAL FROM BOARD OF ADJUSTMENT DECISION)

The City Manager said the City was named a party in a lawsuit filed on August 5, 1987 by Kerry A. Friedman, John David Rountree, Sandra Rae Rountree, William Klodt, Nancy Klodt, William Sabo, and Theresa Sabo v. Board of Adjustments of the City of Asheville and John C. Letterle and Betsy Letterle relative to an appeal from a Board of Adjustment decision.

RALPH BISHOP - REQUEST FOR COPY OF REVENUE BONDS - LIBRARY - POLICE DEPARTMENT - CITY MANAGER

Ralph Bishop requested a copy of the Revenue Bonds. He asked what the City paid for the Pack Library. He commented on the lottery sales in the City of Asheville, the Asheville Police Department and the City Manager.

ADJOURNMENT

Upon motion of Vice-Mayor Frank, seconded by Councilman Price, the meeting adjourned at 5:40 P.M.

MAYOR

CITY CLERK

Tuesday - August 18, 1987 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Kenneth M. Michalove, Norma T. Price, Wilhelmina Bratton, George Tisdale, and Walter Boland; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Boland.

I. PROCLAMATIONS:

A. Resolution No. 87-144 -Resolution of appreciation to the Planning Staff for their efforts in preparing the 2010 Asheville City Plan.

Mayor Bissette read the resolution.

Upon motion of Councilman Boland, seconded by Councilman Michalove, Resolution 87-144 was unanimously adopted.

Resolution Book No. 16 Page No. 404

Verl Emrick, Director of Planning, introduced the Planning staff members involved in the preparation of the 2010 Asheville City Plan.

Councilman Price, as Chairman of Alternatives for Asheville Committee, presented Certificates of Appreciation to the following staff members that directly worked with the Alternatives for Asheville Committee: Carol Albrice, Julia Cogburn, Verl Emrick, Diane Fry, Al Kolf, Sonya Luckadoo, Patricia Tallerday, and Mike Wheeler.

B. Resolution No. 87-145 - Resolution of appreciation to Councilman Norma Price for her services as Chairman of the Alternatives for Asheville Committee.

Mayor Bissette read the resolution.

Upon motion of Vice-Mayor Frank, seconded by Councilman Bratton, Resolution No. 87-145 was unanimously adopted.

Resolution Book No. 16 Page No. 405

II. PUBLIC HEARINGS:

A. **Public hearing relative to site plan of the proposed expansion of St. Marks Lutheran Church at 10 North Liberty Street.**

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held April 8, 1987, reviewed a site plan of the proposed expansion of St. Marks Lutheran Church at 10 North Liberty Street. The site plan was prepared by Wood and Cort, Architects, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to approve the project subject to the following conditions: 1. That a variance be granted to permit a side setback of 6" instead of the required 8'; 2) That a variance be granted to permit 45 parking spaces instead of the required 56; 3) That a variance be granted to reduce the buffering on the north property line; and 4) Compliance with the Erosion Control Ordinance.

Mayor Bissette opened the public hearing at 4:20 P.M.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said John Cort, project architect, has requested that the public hearing be continued for one (1) week.

Councilman Tisdale said it was his understanding the developer is presently negotiating an agreement with the adjoining property owner relative to the proposed project being within 6" of the adjoining property. He requested that this agreement be completed before Council considers the plan.

Councilman Boland moved to continue the public hearing relative to the proposed expansion of St. Marks Lutheran Church at 10 North Liberty Street until August 25, 1987 without further advertisement. This motion was seconded by Councilman Price and carried unanimously.

III. OLD BUSINESS:

A. **Ordinance No. 1643 - Third reading of Ordinance No. 1643, an ordinance amending Ordinance No. 322, being the Zoning Ordinance for the City of Asheville, as amended rezoning property in the area north of Hilliard, west of Clingman and southeast of West Haywood Street to Commercial Service District.**

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held June 3, 1987, considered the rezoning petition, plus lots in an area North of Hilliard, West of Clingman and Southeast of West Haywood Street for possible inclusion in the Commercial Service District. The Commission voted to recommend to City Council that Ward 4, Sheet 3, Lots 22, 26, 27, 28, 29, 31, 32-1/4, 34, 36, 36-1/4, 37, 38, 237, 240, 241, and 252 be rezoned from R-3 Residential District to CS Commercial Service District.

On a roll call vote of 7-0, Ordinance No. 1643 passed on third and final reading.

Ordinance Book No. 11 Page No. 148

B. **Ordinance No. 1644 - Third reading of Ordinance No. 1644, an ordinance amending Ordinance No. 322, being the Zoning Ordinance for the City of Asheville, as amended rezoning property located at Haywood Road and Nevada Avenue from R-3 Residential District to CS Commercial Service District.**

Due to a conflict of interest, Mayor Bissette was previously excused from vote and participation in this rezoning matter. He turned the meeting over to Vice-Mayor Frank.

Vice-Mayor Frank the Asheville Planning and Zoning Commission at a meeting held May 13, 1987, reviewed and recommended that a portion of Lot 2-1/4, Sheet 11, Ward 5, be rezoned from R-3 Residential District to CS Commercial Service District.

On a roll call vote of 6-0, Ordinance No. 1644 passed on third and final reading.

Ordinance Book No. 11 Page No. 149

C. **Ordinance No. 1645 - Second reading of Ordinance No. 1645, Ordinance to extend the corporate limits of the City of Asheville to an area south of the existing corporate limits under the authority granted by Part 3, Article 4A, Chapter 160A of the General Statutes of North Carolina.**

Mayor Bissette said all legal requirements have been met in order for Council to consider an ordinance to extend the corporate limits to an area south of the existing corporate limits.

On a roll call vote of 7-0, Ordinance No. 1645 passed on second reading.

D. Ordinance No. 1646 - Second reading of Ordinance No. 1646, Ordinance to extend the corporate limits of the City of Asheville to an area lying to the west of Hendersonville Road under the authority granted by Part 3, Article 4A, Chapter 160A of the General Statutes of North Carolina.

Mayor Bissette said all legal requirements have been met in order for Council to consider an ordinance to extend the corporate limits to an area lying to the west of Hendersonville Road.

Ralph Bishop spoke in opposition to the annexation ordinances.

On a roll call vote of 7-0, Ordinance No. 1646 passed on second reading.

E. Ordinance No. 1647 - Second reading of Ordinance No. 1647, Ordinance to extend the corporate limits of the City of Asheville to a portion of the area generally known as the Oteen Area under the authority granted by Part 3, Article 4A, Chapter 160A of the General Statutes of North Carolina.

Mayor Bissette said all legal requirements have been met in order for Council to consider an ordinance to extend the corporate limits to an area generally known as the Oteen Area.

On a roll call vote of 7-0, Ordinance No. 1647 passed on second reading.

F. Ordinance No. 1648 - Second reading of Ordinance No. 1648, Ordinance to extend the corporate limits of the City of Asheville to a portion of the area generally known as the Haw Creek Area under the authority granted by Part 3, Article 4A, Chapter 160A of the General Statutes of North Carolina.

Mayor Bissette said all legal requirements have been met in order for Council to consider an ordinance to extend the corporate limits to an area generally known as the Haw Creek Area.

On a roll call vote of 7-0, Ordinance No. 1648 passed on second reading.

G. Resolution No. 87-146 - Resolution amending the report of plans for extension of City services into the area to the west of the existing Corporate Limits proposed for annexation.

Mayor Bissette said the amendment will reflect the reduction of the area proposed to be annexed to exclude a large area belonging to BASF, the Enka Village, and the Southeastern Container Company. The revised plan will reflect these changes.

Verl Emrick, Director of Planning, said the area excluded for consideration of annexation included vacant land, which would not affect the qualifications of the area for annexation since the N.C. General Statutes specify that areas included in annexations must be developed.

Upon motion of Vice-Mayor Frank, seconded by Councilman Price, Resolution No. 87-146 was unanimously adopted.

Resolution Book No. 16 Page No. 406

H. **Ordinance No. 1649 - Ordinance to extend the corporate limits of the City of Asheville to an area to the west of the existing corporate limits under the authority granted by Part 3, Article 4A, Chapter 160A of the General Statutes of North Carolina.**

Mayor Bissette said all legal requirements have been met in order for Council to consider an ordinance to extend the corporate limits to an area to the west of the existing corporate limits.

The following individuals spoke in opposition to the annexation of the area in the west:

Elva Wallace - 4 Glen Cliff, Woodside Hills
Tom Thrash - Enka area - requested a more detailed description of the boundaries considered for annexation. He also pointed out a typographical error in the amended plan relative to the estimated ad valorem taxes.
Bob Hill - 11 Glen Cliff, Woodside Hills
Clarence Williams - Woodside Hills
Jack Pike - Enka Area
R. A. McClure - 35 Mayflower Drive- Candler

Mayor Bissette, in response to concerns expressed relative to the annexation, handed out a cost sample outlining current expenses to property owners in the west area vs. anticipated expenses after annexation. He noted that property owners in the area would no longer be required to pay a fire district tax, sanitary tax, the City would be picking up the cost for street lighting, individual fire insurance ratings would be less, and they should receive a savings on their state and federal income tax.

Councilman Michalove said he felt annexation is necessary for the City of Asheville to grow. He noted that the majority of services used by County residents, either directly or indirectly, are located in the City Limits of Asheville. He said it is the City of Asheville's responsibility to support many of these non-profit agencies even though County residents use these services.

Vice-Mayor Frank moved for the adoption of Ordinance No. 1649. This motion was seconded by Councilman Boland.

On a roll call vote of 7-0, Ordinance No. 1649 passed on first reading.

Councilman Michalove moved to suspend the rules and proceed to the second reading of Ordinance No. 1649. This motion was seconded by Councilman Bratton and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1649 passed on second reading.

IV. NEW BUSINESS:

A. **Ordinance No. 1650 - Ordinance establishing the City of Asheville Police Officers' Disability Review Board for former members of the Asheville Policemen's Pension and Disability Fund.**

Mayor Bissette noted that the Review Board will replace the old Pension and Disability Board. The Board will evaluate future requests for "floor" guaranteed to retirees who sustain a disability "in the line of duty". Membership shall consist of: 1) member of City Council; 2) member of the Police Department; 3) licensed medical doctor; 4) City Manager or his designee; and 5) a member at large chosen by the City Council.

Ralph Bishop requested a copy of the ordinance.

Councilman Michalove moved for the adoption of Ordinance No. 1650. This motion was seconded by Councilman Bratton.

On a roll call vote of 7-0, Ordinance No. 1650 passed on first reading.

Councilman Michalove moved to suspend the rules and proceed to the second reading of Ordinance No. 1650. This motion was seconded by Councilman Boland and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1650 passed on second reading.

Councilman Michalove moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1650. This motion was seconded by Councilman Boland and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1650 passed on third and final reading.

Ordinance Book No. 11 Page No.

V. CONSENT:

A. Resolution No. 87-147 - Resolution accepting an offer for the purchase of city-owned property located on Whitson Road.

SUMMARY: The City of Asheville has received an offer for the purchase of a mobile home and attachments and detached garage located on the northwest corner of Whitson Road and Arco Road, further known as 20 Whitson Road. The offer is in the amount of $700. This resolution will authorize the sale of the abovementioned to Ricky Rice and authorize the Mayor to sign the offer to purchase and any other documents required to complete the conveyance. The property was originally purchased for right-of-way needs for the Arco Road Bridge Replacement Project. The offer was duly advertised and no upset bids have been received within the time required by N. C. General Statutes.

Resolution Book No. 16 Page No. 407

B. Resolution No. 87-148 - Resolution establishing the Asheville Sign Commission.

SUMMARY: The following individuals will be appointed to the Asheville Sign Commission: Barbara McEwan; Linn Brown; Ellen Carr, Gary Lowe, Frank Graham; Jerry Grant; Barney Woodard; and Otis Ware.

Resolution Book No. 16 Page No. 408

C. Scheduling public hearing relative to amending Section 30-6-1B.11 of the Code of Ordinances of the City of Asheville requiring installation of sidewalks along all public rights-of-way adjoining group developments for September 15, 1987.

D. Resolution No. 87-149 - Resolution approving signatories for checks or drafts on official city depositories.

SUMMARY: The purpose of this action is to update signatories. The individuals filling the following named positions will be authorized signatories for all checks or drafts drawn on official City depositories: City Manager, Finance Director, City Accountant, and General Ledger Grant Accountant

Resolution Book No. 16 Page No. 409

Upon motion of Vice-Mayor Frank, seconded by Councilman Michalove, the consent agenda was unanimously approved.

OTHER BUSINESS:

(1) - Resolution No. 87- 150 -Resolution authorizing submittal of an application to the U. S. Department of Housing and Urban Development for a grant to carry out Fair Housing Activities.

Mayor Bissette noted that this resolution would authorize the filing of a grant application for $34,000 from the Department of Housing and Urban Development for the administering of the Fair Housing Program. He said the majority of these funds would be used for staffing, training, and building the program to deal with Fair Housing. He said the same funds would be available next year. He said after next year the program would be funded on a case by case basis with the Department of Housing and Urban Development allowing $750 for each case.

Upon motion of Councilman Bratton, seconded by Councilman Michalove, Resolution No. 87-150 was unanimously adopted.

Resolution Book No. 16 Page No. 410

RALPH BISHOP - DOWNTOWN PROJECTS - LIBRARY - LOTTERY SALES

Ralph Bishop asked if any ad valorem tax money was being spent in the Downtown Development area. He also spoke relative to lottery sales in the City of Asheville.

ADJOURNMENT

Upon motion, the meeting adjourned at 6:00 P.M.

MAYOR CITY CLERK

Tuesday - August 25, 1987 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Kenneth M. Michalove, Norma T. Price, Wilhelmina Bratton, and George Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Walter Boland.

INVOCATION

At the request of Councilman Tisdale the audience stood for the pledge of allegiance to the flag. Councilman Tisdale then gave the invocation.

APPROVAL OF MINUTES

Mayor Bissette announced the approval of the minutes of the August 11, 1987 and August 18, 1987 meeting as submitted.

I. PROCLAMATIONS

A. **Proclamation recognizing the Land-of-the-Sky Bassmasters.**

Mayor Bissette read the proclamation stating that the Land of Sky Bassmasters was named the #1 B.A.S.S. Club in America and was awarded the National Public Relations Award.

Mayor Bissette presented the proclamation to Phil Shope, President of the Land-of-Sky Bassmasters.

B. **Resolution No. 87-151 - Resolution endorsing the promotion of Amtrak services from the East Coast to Asheville.**

Mayor Bissette read the resolution endorsing and supporting the Carolina Association of Passenger Train Advocates "CAPTA" to promote and secure AMTRAK service from the East Coast to Asheville.

Upon motion of Councilman Bratton, seconded by Councilman Price, Resolution No. 87-151 was unanimously adopted.

Resolution Book No. 16 Page No. 411

C. Resolution No. 87-152 - Resolution endorsing $46 million bond referendum

Mayor Bissette read the resolution endorsing the $46 million bond referendum scheduled by the County of Buncombe for September 22, 1987. The bond issue will include $32 million for schools, $8 million for the Asheville Regional Airport, and $6 million for Asheville-Buncombe Technical Institute.

Upon motion of Councilman Bratton, seconded by Councilman Michalove, Resolution No. 87-152 was unanimously adopted.

Resolution Book No. 16 Page No. 412 and 413

Mayor Bissette presented to resolution to Curtis Ratcliff, Chairman of the Buncombe County Commissioners', Carey Owen, Eugene Ochsenreiter, and Mac McGough, members of the Bond Steering Committee.

Chairman Ratcliff and members of the Bond Steering Committee thanked members of Council for the resolution of endorsement and support.

II. PUBLIC HEARINGS:

A. Continuation of public hearing relative to the proposed Long Street/Syrlin Street Condominium Project.

Mayor Bissette said the Asheville Planning and Zoning Commission reviewed the project on July 1, 1987, and recommended denial because of traffic impact on the neighborhood.

(Any approval by City Council should be contingent upon:
1. Board of Adjustment granting a width variance on buffer on southern property line; and
2. Compliance with Erosion Control Ordinance).

Verl Emrick, Director of Planning, said the developer, Ms. Goldstein, has requested that the group development plan be withdrawn at this time. He said Ms. Goldstein also requested that Council continue to consider her petition to close a portion of Syrlin Street.

Mayor Bissette said, at the developer's request, the site plan would be withdrawn from consideration at this time.

B. Continuation of public hearing relative to site plan of the proposed expansion of St. Marks Lutheran Church at 10 North Liberty Street.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held April 8, 1987, reviewed a site plan of the proposed expansion of St. Marks Lutheran Church at 10 North Liberty Street. The site plan was prepared by Wood and Cort, Architects, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to approve the project subject to the following conditions: 1. That a variance be granted to permit a side setback of 6" instead of the required 8'; 2) That a variance be granted to permit 45 parking spaces instead of the required 56; 3) That a variance be granted to reduce the buffering on the north property line; and 4) Compliance with the Erosion Control Ordinance.

Verl Emrick, Director of Planning, said the Planning and Zoning Commission recommended approval of the site plan subject to the conditions outlined by Mayor Bissette. He said the Zoning Board of Adjustments, on June 29, 1987 and August 10, 1987, approved the variances requested to permit a side setback of 6" instead of the required 8' and the granting of 45 parking spaces instead of the required 56, and the reducing of buffering on the north property line in order that existing trees can be retained. He said since the property is located in the Chestnut-Liberty Street Historic District, the project was considered and approved by the Historic Resources Commission. He said he had received a letter from James Ervin, Attorney for the adjoining property owner, Mr. Chavaris, indicating that Mr. Chavaris would sell an eight (8') foot strip of land to St. Marks Lutheran Church in order to allow the church an additional side yard. He said this agreement has not been completely consummated but all parties are in agreement. He said it was his understanding that the agreement would be consummated after ratification by the congregation of the church.

John Cort, architect for the project, outlined the details of the proposed expansion. He also noted that he had talked with Mr. Ervin who indicated that his client has no objections to the proposed expansion by the church. He said the purchase of the eight (8') foot strip is also contingent upon the approval of the project by Council.

Upon inquiry of Council, Mr. Emrick said the Fire Department and Traffic Engineering Department requested and is instituting a no parking provision on one side of the street to allow for emergency vehicle access.

Mayor Bissette closed the public hearing at 4:44 P.M.

Upon inquiry of Vice-Mayor Frank, the Corporation Counsel said, in his opinion, that Council could approve the site plan contingent upon the purchase of the eight (8') foot strip of land by the church from Mr. Chavaris.

Vice-Mayor Frank moved to approve the site plan for the expansion of St. Marks Lutheran Church at 10 North Liberty Street subject to the conditions outlined by the Planning and Zoning Commission and contingent upon the church purchasing the eight (8') foot strip from the adjoining property owner, Mr. Chavaris, to be used for a side yard. This motion was seconded by Councilman Tisdale and carried unanimously.

III. OLD BUSINESS:

A. **Ordinance No. 1645 - Third reading of Ordinance No. 1645, Ordinance to extend the corporate limits of the City of Asheville to an area south of the existing corporate limits under the authority granted by Part 3, Article 4A, Chapter 160A of the General Statutes of North Carolina.**

Mayor Bissette said all legal requirements have been met in order for Council to consider an ordinance to extend the corporate limits to an area south of the existing corporate limits.

Mayor Bissette said the ordinance was previously presented to members of Council and read on first and second readings and the ordinance would not be read in its entirety. He said any individual requesting a copy of the ordinance would be furnished one at no cost.

Ralph Bishop spoke in opposition to the annexation ordinances.

On a roll call vote of 6-0, Ordinance No. 1645 passed on third and final reading.

Ordinance Book No. 11 Page No. 150-155

B. **Ordinance No. 1646 - Third reading of Ordinance No. 1646, Ordinance to extend the corporate limits of the City of Asheville to an area lying to the west of Hendersonville Road under the authority granted by Part**

3, Article 4A, Chapter 160A of the General Statutes of North Carolina.

Mayor Bissette said all legal requirements have been met in order for Council to consider an ordinance to extend the corporate limits to an area lying to the west of Hendersonville Road.

Mayor Bissette said the ordinance was previously presented to members of Council and read on first and second readings and the ordinance would not be read in its entirety. He said any individual requesting a copy of the ordinance would be furnished one at no cost.

On a roll call vote of 6-0, Ordinance No. 1646 passed on third and final reading.

Ordinance Book No. 11 Page No. 156-159

C. Ordinance No. 1647 - Third reading of Ordinance No. 1647, Ordinance to extend the corporate limits of the City of Asheville to a portion of the area generally known as the Oteen Area under the authority granted by Part 3, Article 4A, Chapter 160A of the General Statutes of North Carolina.

Mayor Bissette said all legal requirements have been met in order for Council to consider an ordinance to extend the corporate limits to an area generally known as the Oteen Area.

Mayor Bissette said the ordinance was previously presented to members of Council and read on first and second readings and the ordinance would not be read in its entirety. He said any individual requesting a copy of the ordinance would be furnished one at no cost.

On a roll call vote of 6-0, Ordinance No. 1647 passed on third and final reading.

Ordinance Book No. 11 Page No. 160-164

D. Resolution No. 87-153 - Resolution further amending the report of plans for extension of city services into the area proposed for annexation which is generally known as the Haw Creek Area

The City Manager said since the area being annexed was amended by the deletion of one area the plans for services should be amended to reflect a change in the statistical information in the plan as well as the estimated annual revenue.

Mayor Bissette read the resolution.

Upon motion of Vice-Mayor Frank, seconded by Councilman Price, Resolution No. 87-153 was unanimously adopted.

Resolution Book No. 16 Page No. 414

E. **Ordinance No. 1648 - Third reading of Ordinance No. 1648, Ordinance to extend the corporate limits of the City of Asheville to a portion of the area generally known as the Haw Creek Area under the authority granted by Part 3, Article 4A, Chapter 160A of the General Statutes of North Carolina.**

Mayor Bissette said all legal requirements have been met in order for Council to consider an ordinance to extend the corporate limits to an area generally known as the Haw Creek Area.

Mayor Bissette said the ordinance was previously presented to members of Council and read on first and second readings and the ordinance would not be read in its entirety. He said any individual requesting a copy of the ordinance would be furnished one at no cost.

On a roll call vote of 6-0, Ordinance No. 1648 passed on third and final reading.

Ordinance Book No. 11 Page No. 165-168

F. **Resolution No. 87-154 - Resolution further amending the report of plans for extension of city services into the area to the west of the existing corporate limits proposed for annexation.**

The City Manager said since the area description has been changed by the deletion of several parcels the plans for services should be amended to reflect a change in the statistical information in the plan as well as the estimated annual revenue.

Mayor Bissette read the resolution.

Vice-Mayor Frank moved for the adoption of Resolution No. 87-154. This motion was seconded by Councilman Michalove.

Ben Pace, speaking on behalf of the Enka-Candler Businessmen's Association, said the association unanimously opposes the annexation. He said, speaking for himself, Council is legally right in annexing the property, but they should also be morally correct. He said the people of the Enka-Candler area would be monitoring the annexation process and requirements very closely to see to it that the City of Asheville carry out the annexation process and its requirements.

Beulah Wilson, 787 Sand Hill Road, retired senior citizen, spoke in opposition to the annexation. She said the people should have been given an opportunity to vote of the annexation.

Ila Fisher, 791 Sand Hill Road, retired senior citizen, spoke in opposition to the annexation. She said she was concerned whether or not she could pay the additional taxes. She requested that Council reconsider the annexation of the Enka-Candler area.

W. V. Henry, Enka-Candler resident, spoke in opposition to the annexation stating that he did not appreciate City Council taking control of peoples lives and property.

Tom Thrash, Enka-Candler resident, spoke in opposition to the annexation. He said there were emotional and factual issues involved. He said in addition to increased taxes the people would have other controls placed upon them such as zoning and licensing. He said he also opposed the City not following natural boundary lines.

Ralph Bishop again spoke in opposition to the annexation ordinances.

On a voice vote of 6-0, Resolution No. 87-154 was unanimously adopted.

Resolution Book No. 16 Page No. 415

G. Ordinance No. 1649 - Third reading of Ordinance No. 1649, Ordinance to extend the corporate limits of the City of Asheville to an area to the west of the existing corporate limits under the authority granted by Part 3, Article 4A, Chapter 160A of the General Statutes of North Carolina.

Mayor Bissette said all legal requirements have been met in order for Council to consider an ordinance to extend the corporate limits to an area to the west of the existing corporate limits.

At the request of the City Manager, Councilman Price moved to amend Ordinance No. 1649 to change the description as set forth in the final draft of the ordinance as distributed to City Council. This motion was seconded by Vice-Mayor Frank and carried unanimously.

Mayor Bissette said the ordinance was previously presented to members of Council and read on first and

second readings and the ordinance would not be read in its entirety. He said any individual requesting a copy of the ordinance would be furnished one at no cost.

On a roll call vote of 6-0, Ordinance No. 1649, as amended, passed on third and final reading.

Ordinance Book No. 11 Page No. 169-172

IV. NEW BUSINESS:

A. **Resolution No. 87-155 - Resolution granting certain variances for Highland Gate Subdivision.**

Mayor Bissette read the resolution.

Verl Emrick, Director of Planning noted that the Asheville Planning and Zoning Commission granted preliminary plat approval to Highland Gate Subdivision (then called Vance Gap Road Subdivision) on March 25, 1987, subject, among other things, to City Council granting a variance from the width requirement for the road right-of-way and cul-de-sac radius from 50 feet to 40 feet. He said Section 26-13 of the Code of Ordinances of the City of Asheville provides that the City Council may authorize a variance where a subdivider can show that a provision of the regulations prescribed by Chapter 26 of the Code would cause unnecessary hardship if strictly adhered to and where, because of topographical or other conditions peculiar to the site, in the opinion of the Planning and Zoning Commission, a departure may be made without destroying the intent of such provision.

Bill Ashley, Project Engineer, outlined the details of the proposed subdivision. He said the property would be used for single family structures.

Upon inquiry of Councilman Michalove, Mr. Emrick said the project would not be affected by the Hillside Ordinance, Ordinance No. 1613 since single family structures would be placed on the property.

After discussion, Councilman Michalove moved for the adoption of Resolution No. 87-155 contingent upon the developer complying with the Hillside Ordinance, Ordinance No. 1613. This motion was seconded by Councilman Tisdale and carried unanimously.

B. **Consideration of approval of revisions to the Water System Master Plan.**

Mayor Bissette said at the regular meeting of the Asheville-Buncombe Water Authority on August 18, 1987 revisions to the previously adopted water system Master Plan was approved. The Authority has recommended these revisions to both the City and the County.

The City Manager at the last Water Authority meeting it was recommended by the consultant that several large size water lines in the Master Plan be either eliminated or reduced in size. In addition, it was further recommended that the Peach Knob Reservoir be increased in size. The cost savings in eliminating the transmission lines will pay for the increased cost for the larger reservoir at Peach Knob.

Vice-Mayor Frank moved to approve the revisions to the water system Master Plan as recommended by the Asheville-Buncombe Water Authority and as outlined by the City Manager. This motion was seconded by Councilman Michalove and carried unanimously.

V. CONSENT:

A. **Scheduling of public hearing relative to site plan of the proposed conversion of an existing house at 302 Cumberland Avenue into four apartment units for September 8, 1987.**

SUMMARY: The Asheville Planning and Zoning Commission at a meeting held August 12, 1987, reviewed a site plan of the proposed conversion of an existing house at 302 Cumberland Avenue into four apartment units. The plan was prepared by Mr. lanwehr, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project subject to: 1) A variance from the 12' buffer requirement on the southern property line from the Board of Adjustment; and 2) Compliance with the Erosion Control Ordinance, if any grading occurs.

B. **Scheduling of public hearing relative to proposed expansion of Twin Oaks Mobile Home Park on Bingham Road for September 8, 1987.**

SUMMARY: The Asheville Planning and Zoning Commission at a meeting held August 12, 1987, reviewed the proposed expansion of Twin Oaks Mobile Home Park on Bingham Road. The plan was prepared by Ray Anders, RLS, for Mr. Allen Moss, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project subject to:

1) Elimination of Site No. 6 and provision of plantings; and 2) Compliance with Erosion Control Ordinance.

C. **Scheduling of public hearing relative to rezoning property located on Hildebrand Street in the East End/Valley Street Redevelopment Area for September 15, 1987.**

SUMMARY: The Asheville Planning and Zoning Commission at a meeting held August 12, 1987, considered the petition of Mr. Sidney Shorter et al that Lots 89, 90, 2-1/4, 100, 4, and 6, Sheet 2, Ward 1, be rezoned from CS Commercial Service District to R-3 Residential District. The property is located on Hildebrand Street in the East End/Valley Street Redevelopment Area. After review and discussion, the Commission voted to recommend to City Council that Lots 89, 90, 2-1/4, 100, 4, and 6 and 2-1/2, Sheet 2, Ward 1, be rezoned from CS Commercial Service District to R-3 Residential District. (Staff recommended including Lots 6 and 2-1/2 for contiguity although owners had not signed petition).

D. **Resolution No. 87-156 -Resolution authorizing the City Manager to enter into agreements necessary to conduct the French Broad Riverfest and authorizing the City Manager to temporarily close a portion of Riverside Drive for the French Broad Riverfest to be held on Saturday, September 12, 1987, and Sunday, September 13, 1987.**

SUMMARY: The City of Asheville and the French Broad River Foundation, Inc. will be sponsoring the French Broad Riverfest to be held on Saturday, September 12, 1987, and Sunday, September 13, 1987. It is necessary to establish agreements between these sponsors and various land owners of property wherein the Riverfest will be held. It is also necessary to temporarily close a portion of Riverside Drive from its intersection with West Haywood Street south to its intersection with Clingman Avenue. Access to businesses, delivery trucks, and emergency vehicles will be allowed and monitored by the Riverfest Committee.

Resolution Book No. 16 Page No. 417

Upon motion of Vice-Mayor Frank, seconded by Councilman Price, the consent agenda was unanimously approved.

CLAIMS - CLIFFORD JOHNSON (WATER)

The City Manager presented a claim received from Clifford Johnson.

Mayor Bissette referred the claim to the Corporation Counsel for investigation and recommendation.

DISCUSSION - ASHEVILLE SPEEDWAY

Mayor Bissette said during the pre-council work session Council discussed the issue of the Asheville Speedway in relation to an amendment to the Zoning Ordinance that was adopted in 1977 which called for the race track to cease operation ten (10) years from the effective date of the ordinance which would be in October, 1987. He said the amendment also applies to junkyards, salvage yards and several other businesses. He said Council is trying to determine what businesses would be affected by the amendment if it is upheld by the present Council, as well as other legal matters regarding the amendment. He said Council is in the process of gathering the facts before making a decision on the amendment. He said Council would not make a decision pending a report from city staff. However, Council would like to hear comments from the public on the issue.

Micheal Moore, Attorney representing the speedway owner, Russ Leicht, Jr., contended that the language specified in the amendment did not necessarily eliminate the operation of a race track since the property where the race track operates is zoned HI Heavy Industrial which zone states that "any use may be permitted." He contended that the present race track does not operate as a nonconforming use.

Mr. Moore presented Council with petitions with signatures from 6,000 race track supporters. He said the speedway is an important recreational sports outlet for the area and draws more than 170,000 people each year from throughout Western North Carolina. He said the track also provides substantial tax revenue to the city as well as supporting area businesses. He said the track is a certified NASCAR approved track and if it is taken away there would not be another one in our surrounding area. He said the closing of the race track would place a tremendous financial hardship on investors of the track.

Upon inquiry of Mayor Bissette, Mr. Moore said his client would be glad to work with the city to ease the noise problems, with the possibility of requiring mufflers on the race cars, and other measures that might be taken to resolve the problems.

Herman Rector, West Asheville resident, said the noise and dust from the race track was almost unbearable. He said the present owner of the race track was aware of the ten (10) year amortization period when he purchased

the track. He said the residents of West Asheville are also getting their facts together to see what can be done to stop the noise and dust from the track.

Captain Lee Warren, operator of security at the race track, said in his opinion the noise from the race track is not great in West Asheville. He said there are very few problems at the race track and the majority of the people attending the races are gone by 11:15 P.M. He said he felt to close the race track would be a misjustice to the citizens of Asheville, Buncombe County, and Western North Carolina.

Earl Hampton, 84 Nevada Avenue, said he was opposed to the noise from the race track. He said the people of West Asheville are tired of listening to this noise and is not going to tolerate the race track any longer, particularly since they have waited the ten (10) year period. He suggested putting a dome over the track to keep the noise level down.

Gordon McCarson, 40 Vermont Court, said he had been going to the track for 26 years and never experienced a problem. He said the speedway has a non-drinking area, they have fund drives for charity, and there are good professional people involved in the sport. He said the race track keeps kids off the street. He said he felt the race track could not be compared to a junk yard.

Angela Apolisto spoke in favor of keeping the race track open. She said this is a safe, reasonable recreational event. She said the race track does no harm and it would be a disservice to the young people to take the race track away.

Wallace Leatherwood, speaking in support of the race track, said noise is an acceptable part of life. He said since the present owner has been operating the track it has become a clean, family-oriented place for recreation.

Herman Rector said he was also concerned about multi-events going on at the race track such as rock concerts.

Russ Leicht, owner of race track, said there would be no more concerts at the speedway. He said he was also concerned that no one from the city had ever contacted him about the noise at the race track.

John Ponder, Fletcher, North Carolina, said the City should work with the owner to resolve the problems but the race track should not be forced to cease operation.

Steve Anderson, 149 Brucemont Circle, speaking in support of the race track, said the track always closes by 11:30 P.M.

David Cole, property owner in North Asheville, said racing is a form of art and the race track should not be forced to close. He said there would be a lot of jobs affected and tax revenue lost. He requested that Council not put them out of business but work with them to solve the problems.

Upon inquiry of Councilman Bratton, it was noted that there were a number of young people involved with the race tracks, selling newspapers, working on cars, and many other jobs. It was also noted that a large percentage of spectators were young people.

Mayor Bissette thanked the individuals for their comments stating that there were good comments from both sides of the issue. He said Council would be looking very carefully at the issue in an effort to come up with a solution to satisfy everyone concerned. He said Council would be discussing this issue more when they receive the city staff report.

ADJOURNMENT

Upon motion of Councilman Tisdale, seconded by Councilman Price, the meeting adjourned at 6:55 P.M.

MAYOR

CITY CLERK

Tuesday - September 1, 1987 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Kenneth M. Michalove, Norma T. Price, Wilhelmina Bratton, George Tisdale, and Walter Boland; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Norma Price.

APPROVAL OF MINUTES

Mayor Bissette announced the approval of the minutes of the August 25, 1987 meeting as submitted.

I. PROCLAMATIONS:

A. Resolution No. 87-157 - Resolution of appreciation to the members of the Local Legislative Delegation and to Representative Robert C. Hunter for their efforts on behalf of House Bill 1211.

Mayor Bissette recognized Representatives Marie W. Colton, Narvel J. Crawford, and Martin L. Nesbitt who were in attendance at the meeting.

Mayor Bissette read the resolution expressing appreciation to the members of the Local Legislative Delegation and to Representative Robert C. Hunter for legislation enacted by the General Assembly of North Carolina during its 1987 session which makes voluntary the cities' participation in the cost of right-of-way acquisition for state system streets and gives cities the authority to protect future rights-of-way in several ways that had not previously been available. The original bill was introduced by Representative Robert C. Hunter of Marion.

Upon motion of Councilman Tisdale, seconded by Councilman Price, Resolution No. 87-157 was unanimously adopted.

Resolution Book No. 16 Page No. 418

B. Resolution No. 87-158 - Resolution of appreciation to the members of the Local Legislative Delegation and to Speaker Liston Ramsey for their efforts on behalf of Pack Place.

Mayor Bissette read the resolution expressing appreciation to the members of the Local Legislative Delegation and to Speaker of the House Liston Ramsey for their efforts in securing $3 million for the construction of Pack Place Education, Arts and Science Center.

Upon motion of Vice-Mayor Frank, seconded by Councilman Michalove, Resolution No. 87-158 was unanimously adopted.

Resolution Book No. 16 Page No. 419

RECOGNITION OF WALTER MASTERS AND WILLIE ALLEN WITH THE ASHEVILLE POLICE DEPARTMENT - DONATION OF TIME FOR AMERICAN CANCER SOCIETY

Mayor Bissette recognized Walter Masters and Willie Allen for their time and efforts donated to the American Cancer Society during the recent Jail-And-Bail.

Adam Kane, President of the American Cancer Society and Judith Emrick, Executive Director of the American Cancer Society presented the two officers with an appreciation plaque.

C. Proclamation - September 5, 1987 - "Goombay Day"

Mayor Bissette read a proclamation proclaiming Saturday, September 5, 1987, as "Goombay Day" in recognition of the Goombay Festival held by the YMI Cultural Center, Inc.

Mayor Bissette presented the proclamation to Wanda Henry Coleman with the YMI Cultural Center.

Wanda Coleman presented a shield and pins from Bermuda. She said the official Goombay musicians from Bermuda will be at the festival.

D. Proclamation - French Broad River Week - September 5 - 13, 1987

Mayor Bissette read a proclamation proclaiming September 5 - 13, 1987 as "French Broad River Week".

Mayor Bissette presented the proclamation to Councilman Norma Price as Chairman of the Land of Sky Regional Council and Councilman Walter Boland for his efforts with the French Broad River Foundation.

Councilman Price noted the activities that would be taking place during French Broad River Week.

E. Proclamation - Support for efforts by the United States Soccer Federation to bring the 1994 World Cup to the United States.

Mayor Bissette said a copy of the proclamation would be sent to the United States Soccer Federation.

II. PUBLIC HEARINGS:

None Scheduled

III. OLD BUSINESS:

None Scheduled

IV. NEW BUSINESS:

A. Resolution No. 87-159 - Resolution granting certain variances for Lornelle Place Subdivision.

Verl Emrick said the Asheville Planning and Zoning Commission at a meeting held January 14, 1987, approved the preliminary subdivision plat of "Lornelle Place," subject to City Council granting a variance from 50' to 40' on the road width and cul-de-sac. The Developer has requested that the variance request be submitted to City Council prior to grading and submission of the final plat. He said the roads would be constructed to city specifications and would be dedicated to the City for maintenance.

Upon motion of Councilman Boland, seconded by Councilman Michalove, Resolution No. 87-159 was unanimously adopted.

Resolution Book No. 16 Page No. 420

V. CONSENT:

A. Motion authorizing the City Manager to execute Consent Judgements in a condemnation case involving Asheville City Board of Education v. Trustees of the Church of God in Christ, et als for property fronting on Gudger Street.

SUMMARY: The City has no interest in the property but was made a party due to potential tax liens.

B. Approval of sale of Disposal Parcel 134 in the East End/Valley Street Community Improvement Project and Disposal Parcel 179A in the East Riverside Urban Renewal Project.

SUMMARY: The Housing Authority has tentatively accepted the following bids for certain disposal parcels in the East Riverside Urban Renewal Project and the East End/Valley Street Community Improvement Project:

East End

Parcel	Reuse	Price	Bid	Redeveloper
134	Assemblage	$4,100.00	$4,100.00	Nazareth First Baptist

East Riverside

179A	Assemblage	$ 500.00	505.00	Mr. Jack Ingle

Disposal Parcel 134 is a lot for assemblage with property owned by Nazareth First Baptist Church. No construction is planned.

Disposal Parcel 179A is a small lot for assemblage with rental property owned by Mr. Ingle on Congress Street. The lot will be used to provide off street parking for Mr. Ingle's tenants.

Upon motion of Councilman Michalove, seconded by Councilman Price, the consent agenda was unanimously adopted.

RALPH BISHOP - REVENUE BONDS - PACK LIBRARY - LOTTERY SALES

Ralph Bishop spoke to members of Council relative to the security pledged for the Parking Garage Revenue Bonds. He also commented relative to obtaining copies of the documents concerning the City purchasing the old Pack Memorial Library. He commented on the lottery sales in the City of Asheville.

INTERGOVERNMENTAL SERVICES COMMITTEE

Vice-Mayor Frank said the Intergovernmental Services Committee consisting of Commissioners Montgomery and Sobol and Councilmen Tisdale and Boland met today at 12:30 p. m. She said they discussed hazardous material handling, the coordination of dispatching the 911 emergency number, and the litter control enforcement officer's position.

CLAIMS - JOHN GEORGE (WATER) - BLANDENE PETTIT (WATER) - JONATHAN PEARLMAN (WATER) - DON BAKER (SEWER) - CLAY CLINE (STREETS) - MARY ELLEN WILLIAMS (STREETS)- WARREN WALKER (STREETS) - H. PAPANASTASIOU (SANITATION) - REX SNODGRASS (PARKING SERVICES) - AL BOUCHARD (FIRE) - BRENDA RICE (WATER)

The City Manager presented claims received from John George, Blandene Pettit, Jonathan Pearlman, Don Baker, Clay Cline, Mary Ellen Williams, Warren Walker, H. Papanastasiou, Rex Snodgrass, Al Bouchard, and Brenda Rice.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

ADJOURNMENT

Upon motion of Councilman Bratton, seconded by Councilman Michalove, the meeting adjourned to meet in executive session to discuss a legal and real estate matter.

MAYOR

CITY CLERK

Tuesday - September 8, 1987 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Kenneth M. Michalove, Norma T. Price, George Tisdale, and Walter Boland; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Deputy City Clerk Carol Hensley.

Absent: Councilman Wilhelmina Bratton and Associate City Manager/City Clerk William F. Wolcott, Jr.

INVOCATION

Mayor Bissette introduced Rev. Donnell Jefferies, Pastor of Berry Temple United Methodist Church who gave the invocation.

APPROVAL OF MINUTES

Mayor Bissette announced the approval of the minutes of the September 1, 1937 meeting as submitted.

I. PROCLAMATIONS:

A. Introduction of new firefighters.

Chief John Ruckavina, of the Fire Department introduced seven new firefighters.

Chief Ruckavina also presented former Fire Chief Powell Ball with a "Gold" honorary lifetime membership card to the North Carolina Association of Fire Chiefs and a wooden plaque with Chief Ball's badge placed on the plaque for his many years of service with the City of Asheville.

B. Proclamation - September 13 - 20, 1987 - Constitution Week.

Mayor Bissette read the proclamation and presented a copy to Mrs. Helen Brown, Chairman of Constitution Week with the Daughters of the American Revolution and to Paul Limbert, member of the Bicentennial Commission.

C. Proclamation - September 20 - 26, 1987 - Foster Care Awareness Week.

Mayor Bissette read the proclamation and presented a copy to Bonnie Judkins, Executive Director of Professional Parenting, Inc.

Ms. Judkins said this proclamation was requested by Professional Parenting, Eliada Home, and Buncombe County Department of Social Services, foster care agencies, in an effort to help with recruitment efforts and to increase awareness of the citizens of Asheville and Buncombe County as to the needs of homeless children.

D. Proclamation - September 13 - 19, 1987 - "Just Say No" Pledge Week.

Mayor Bissette said this proclamation was requested by the United States Conference of Mayors and a copy would be forwarded to the organization.

E. Proclamation - September 11 - 13, 1987 - "Berry Temple 100th Anniversary Weekend"

Mayor Bissette read the proclamation and presented a copy to Rev. Donnell Jefferies, Pastor of Berry Temple United Methodist Church, and to Ms. Elrita Nesby, co-chairman of the celebration.

Ralph Bishop spoke against the Mayor issuing the proclamation for Constitution Week.

II. PUBLIC HEARINGS:

A. Public hearing relative to site plan of the proposed conversion of an existing house at 302 Cumberland Avenue into four apartment units.

Mayor Bissette opened the public hearing at 4:40 p.m.

The Deputy City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning said the Asheville Planning and Zoning Commission at a meeting held August 12, 1987, reviewed a site plan of the proposed conversion of an existing house at 302 Cumberland Avenue into four apartment units. The plan was prepared by Mr. Lanwehr, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project subject to: 1) A variance from the 12' buffer requirement on the southern property line from the Board of Adjustment; and 2) Compliance with the Erosion Control Ordinance.

Mayor Bissette closed the public hearing at 4:43 p. m.

Councilman Price moved to approve the site plan of the proposed conversion of an existing house at 302 Cumberland Avenue into four apartment units subject to the conditions outlined by the Planning and Zoning Commission. This motion was seconded by Councilman Boland and carried unanimously.

B. **Public hearing relative to proposed expansion of Twin Oaks Mobile Home Park on Bingham Road.**

Mayor Bissette turned the meeting over to Vice-Mayor Frank.

Vice-Mayor Frank opened the public hearing at 4:46 p.m.

The Deputy City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Asheville Planning and Zoning Commission at a meeting held August 12, 1987, reviewed the proposed expansion of Twin Oaks Mobile Home Park on Bingham Road. The plan was prepared by Ray Anders, RLS, for Mr. Allen Moss, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project subject to: 1) Elimination of Site No. 6 and provision of plantings; and 2) Compliance with Erosion Control Ordinance.

Vice-Mayor Frank closed the public hearing at 4:48 p. m.

Councilman Price moved to approve the proposed expansion of Twin Oaks Mobile Home Park on Bingham Road subject to the conditions outlined by the Planning and Zoning Commission. This motion was seconded by Councilman Michalove and carried unanimously.

IV. NEW BUSINESS:

A. **Resolution No. 87-160 - Resolution authorizing execution of contract with the County of Buncombe for provision of billing and collecting services for County sewer user fees.**

Vice-Mayor Frank said the Water Agreement requires that both the City and County provide for a sewer user charge by July 1, 1987. The County, in order to bill for this charge on a water consumption basis, needs to have an agreement with the City for the City to provide this service.

Upon motion of Councilman Michalove, seconded by Councilman Price, Resolution No. 87-160 was unanimously adopted.

Resolution Book No. 16 Page No. 421

Mayor Bissette returned to the meeting.

C. **Appeal of Melvin Walsh for in-line-of-duty disability benefits.**

Mayor Bissette said the Supreme Court has remanded Mr. Walsh's claim to the City Council for determination of his entitlement to in-line-of-duty disability benefits under the Asheville Policemen's Pension and Disability Fund.

Corporation Counsel Slawter noted that the courts have determined that the police pension law as amended in 1979 would not apply to Melvin Walsh's case and that the law in effect as of the date Mr. Walsh was hired would prevail.

Councilman Boland moved that Melvin Walsh be awarded in-line-of-duty disability benefits from the Asheville Policemen's Pension and Disability Fund. This motion was seconded by Vice-Mayor Frank and carried unanimously.

V. CONSENT:

A. **Resolution No. 87-161 - Resolution appointing member to the Asheville Transit Authority.**

SUMMARY: This resolution will appoint Paul Hensley as a member of the Asheville Transit Authority to serve the unexpired term of Mr. H. H. Queen, term expiring December 31, 1987 and to serve a four (4) year term, term expiring December 31, 1991, or until his successor has been duly appointed and qualified.

Resolution Book No. 16 Page No. 422

B. **Scheduling of public hearing relative to site plan of the proposed Shoppes of Beaver Lake to be located on Merrimon Avenue at a special meeting on September 23, 1987 at 4:00 p.m.**

SUMMARY: The Asheville Planning and Zoning Commission at a meeting held September 2, 1987, reviewed a site plan of the proposed Shoppes of Beaver Lake to be located on Merrimon Avenue. The plan was prepared by Danie Johnson, Architect,

for Beverly Developments, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project with the following conditions:

1. That signage description be provided to City Council;
2. Subject to compliance with Erosion Control Ordinance;
3. Subject to execution of an agreement to establish a 20' buffer on the Western Steer property; and
4. That developer give special concern to wildlife habitat during building process and after to avoid silting.

The Commission further noted that the public hearing process revealed serious questions with regard to ownership of the right to develop the property in the manner intended. The Commission urges City Council to determine the status of the right to develop the site with regard to boundary survey, the location of the floodway, and any rights the residents of the Lakeview Park Commission might have relative to the use of this parcel.

Upon motion of Councilman Boland, seconded by Councilman Price, the consent agenda was unanimously approved.

COUNCIL MEETING - SEPTEMBER 22, 1987

Mayor Bissette announced that the regularly scheduled meeting for September 22, 1987 has been cancelled due to the primary election.

RESOLUTION NO. 87-162 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE CERTAIN DOCUMENTS FOR THE PACK PLAZA REDEVELOPMENT PROJECT AND THE PACK PLACE EDUCATION, ARTS AND SCIENCE CENTER PROJECT

The City Manager said this resolution will authorize the Mayor to complete the transfer of deeds and easements for the Pack Plaza Redevelopment Project and the Pack Place Education, Arts and Science Center Project and authorize the execution of certain subordination agreements required as a result of the UDAG Loan, UDAG Agreement and City/County Loan for the Pack Plaza Redevelopment Project. The resolution will also authorize the execution of all lease agreements by and between the City and Pack Place Education, Arts and Science Center for the project.

Upon motion of Vice-Mayor Frank, seconded by Councilman Price, Resolution No. 87-162 was unanimously adopted.

Resolution Book No. 16 Page No. 423

HARRY BRUMMER - CONSTRUCTION OF HOUSE ON SUNSET SUMMIT

Harry Brummer spoke to members of Council relative to the difficulties he had had with constructing a residence on Sunset Summit. He outlined the history of events that has kept him from completing the project.

After discussion, Council requested that the Corporation Counsel furnish members of Council with a status report on the residence on Sunset Summit.

CLAIMS - JOHN FULLER (WATER) - MR. O'NEIL (CIVIC CENTER) - ANTHONY DOBBS (SANITATION)

The City Manager presented claims received from John Fuller, Mr. O'Neil, and Anthony Dobbs.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

LAWSUITS - HOUSING AUTHORITY OF THE CITY OF ASHEVILLE (CONDEMNATION OF ETTASTINE NEELY, ET AL., PROPERTY - EAST END/VALLEY STREET) - (CONDEMNATION OF EDDIE COLEMAN, ET AL., PROPERTY EAST END/VALLEY STREET) - (CONDEMNATION OF FRED R. QUICK, JR., ET AL., PROPERTY EAST END/VALLEY STREET

The City Manager said the City was named a party in lawsuits involving the Housing Authority of the City of Asheville relative to condemnation of Ettastine Neely, et al, property, Eddie Coleman property, and Fred R. Quick, Jr. property in the East End/Valley Street.

Mayor Bissette referred the lawsuits to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP - DOWNTOWN PROJECTS

Ralph Bishop asked questions relative to the Pack Place Project.

ADJOURNMENT

Upon motion of Councilman Tisdale, seconded by Vice-Mayor Frank the meeting adjourned at 5:20 p. m.

MAYOR

CITY CLERK

Tuesday - September 15, 1987 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Kenneth M. Michalove, Norma T. Price, Wilhelmina Bratton, George Tisdale, and Walter Boland; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Assistant City Manager/Deputy City Clerk Charles Penny

Absent: William F. Wolcott, Jr., - Vacation

ANNOUNCEMENT - MAYOR BISSETTE - MEETING WITH TRANSPORTATION SECRETARY JAMES E. HARRISON AND OTHER N. C. DEPARTMENT OF TRANSPORTATION DIGNITARIES

Mayor Bissette announced that he would be meeting with Transportation Secretary James E. Harrington and Transportation Board Member John Sutton to discuss several issues.

Mayor Bissette excused himself and turned the meeting over to Vice Mayor Frank.

INVOCATION

The invocation was given by Vice Mayor Frank.

APPROVAL OF THE MINUTES - SEPTEMBER 8, 1987 MEETING

Vice Mayor Frank announced the approval of the minutes of the September 8, 1987 as submitted.

I. PROCLAMATIONS

A. **Proclamation supporting the New Priorities Conference - September 18 and 19, 1987**

Vice Mayor Frank read the proclamation and presented a copy to Pamela Ray.

B. **Proclamation - American Business Women's Day - September 22, 1987**

Vice Mayor Frank read the proclamation and presented a copy to Jane C. Conner, President of the Sky-Hy Chapter of the A.B.W.A. Ms. Conner also introduced Judy Kelly, President of the Skyland Chapter of the A.B.W.A.

C. **Proclamation - Asheville Community Theatre Week - September 13 - 19, 1987**

Vice Mayor Frank read the proclamation and presented a copy to Ralph Redpath, Director of the Asheville Community Theatre.

II. PUBLIC HEARINGS

A. **Public hearing relative to amending Section 30-6-1B.11 of the Code of Ordinances of the City of Asheville requiring installation of sidewalks along all public rights-of-way adjoining group development**

Vice Mayor Frank said the Asheville Planning and Zoning Commission at a meeting held September 9, 1987, considered an amendment to Section 30-6-1B.11 of the Code of Ordinances to require installation of sidewalks along all public rights-of-way adjoining group developments. After discussion, the Commission passed a motion that the proposed revision not be endorsed by the Planning and Zoning Commission or recommended to City Council for adoption. The sentiment of the Commission is that sidewalk construction is a municipal responsibility and proposed amendment to the ordinance would provide for inequitable application.

Vice Mayor Frank opened the public hearing at 4:15 p.m.

Vice Mayor Frank said that Council and staff had a very lengthy discussion relative to Section 30-6-1B.11 at their Pre-Council Work Session. As a result of this, she said it was the consensus of the City Council to refer the matter back to the Planning and Zoning Commission for further study. She said it might also be beneficial to the Commission to visit some other cities to see how they are addressing this issue.

Councilman Tisdale moved to remand the proposed amendment to Section 30-6-1B.11 of the Code of Ordinances back to the Planning and Zoning Commission for further study. This motion was seconded by Councilman Michalove and carried unanimously.

Vice Mayor Frank closed the public hearing at 4:16 p.m.

B. **Public hearing relative to rezoning property located on Hildebrand Street in the East End/Valley Street Redevelopment Area**

ORDINANCE NO. 1651, AN ORDINANCE AMENDING ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE", AS AMENDED (PROPERTY LOCATED ON HILDEBRAND STREET)

Vice Mayor Frank said the Asheville Planning and Zoning Commission at a meeting held August 12, 1987, considered the petition of Mr. Sidney Shorter et al that Lots 89, 90, 2-1/4,

100, 4, and 6, Sheet 2, Ward 1, be rezoned from CS Commercial Service District to R-3 Residential District. The property is located on Hildebrand Street in the East End/Valley Street Redevelopment Area. After review and discussion, the Commission voted to recommend to City Council that Lots 89, 90, 2-1/4, 100, 4, and 6 and 2-1/2, Sheet 2, Ward 1, be rezoned from CS Commercial Service District to R-3 Residential District. (Staff recommended including Lots 6 and 2-1/2 for contiguity although owners had not signed petition).

Vice Mayor Frank opened the public hearing at 4:16 p.m.

The Deputy City Clerk presented the notice to the public setting the time and date of the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Planning and Zoning Commission recommended that Council approve the rezoning requested by Sidney Shorter. He said the Commission further recommended that Lot 2-1/2 be included in the rezoning. He said the rezoning request had also been reviewed by the East End/Valley Street Homeowner's Association and the Asheville Housing Authority and they concur in the request.

Sue Evans, owner of Lot 6 and resident of 12 Belleair Road spoke in opposition to the proposed rezoning. She said the only logical zoning for her lot is the Commercial Highway designation. She said the lot's value would be reduced to almost nothing, and the lot would not be usable if rezoned to R-3 since a minimum of 8,000 square feet is required to build on. She requested that Council exclude lot #6 from the proposed rezoning.

Mike Robinson, Real Estate Broker representing Ms. Evans, said the lot fronts on Hildebrand and College Streets, and that driveway permits could be obtained from the State for the property. He said he had received several offers for this piece of property, one in the amount of $15,000 and the person was willing to make all of the necessary changes.

Mr. Emrick answered other questions raised by Council Members relative to uses permitted in the R-3 and Commercial Service Districts, and conditional uses in the R-3 zone.

Mr. Robinson said even with the conditional use, the minimum lot size requirement is still 8,000 square feet and this would prevent Ms. Evans from using the lot. He said the proposed zoning, in total, should be denied by Council.

For the benefit of Council, Mr. Emrick read the lots proposed for rezoning and gave the owner's name for each.

Vice Mayor Frank closed the public hearing at 4:45 p.m.

Councilman Price moved to remove Lot 6 from the proposed rezoning and for the adoption of Ordinance No. 1651. This motion was seconded by Councilman Tisdale and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1651 passed on first reading.

III. OLD BUSINESS - NONE

IV. NEW BUSINESS

A. **Approval of sign permit for identification sign to be located at 64 Orchard Street for Booth Barfield Realty**

Vice Mayor Frank announced that this item was removed from the agenda at the request of the petitioner. She said the item would be placed on the agenda for September 29th.

B. **Ordinance No. 1652, an ordinance amending Section 28-52 (b) of Chapter 28 of the Code of Ordinances of the City of Asheville prohibiting truck traffic on Hanover Street between I-240 Ramp and State Street**

Vice Mayor Frank said this action will add the portion of Hanover Street, between the I-240 Ramp and State Street, to the list of residential streets on which certain truck traffic is prohibited. She said this action has been recommended by the Traffic Engineer Bob McDonald.

Vice Mayor Frank said copies of the ordinance had previously been distributed to Members of City Council, and the ordinance would not be read in its entirety unless there was a specific request to do so.

Councilman Price moved for the adoption of Ordinance No. 1652. This motion was seconded by Councilman Michalove and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1651 passed on first reading.

Councilman Price moved to suspend the rules and proceed to the second reading of the ordinance. This motion was seconded by Councilman Boland and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1652 passed on second reading.

Councilman Price moved to suspend the rules and proceed to the third and final reading of the ordinance. This motion was seconded by Councilman Boland and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1652 passed on third and final reading.

Complete text of Ordinance No. 1652 will be found in Ordinance Book No. 11, Page 176.

V. CONSENT

A. Resolution No. 87-163 - Resolution approving a reduction in fire contract charges for the Veteran's Administration Medical Center at Oteen

SUMMARY: Due to the City of Asheville discontinuing fire alarm box services, there is a need to reduce the monthly rate charged Veteran's Administration Medical Center by the amount of $30.67 a month for the months of July, August, and September, 1987. By October 1, 1987 a new contract will have been negotiated.

Resolution Book No. 16, Page No. 424

B. Award of bids for corrugated steel pipe for Public Works Department, Street Division

SUMMARY: Sealed bids were requested and four bids were received - Contech Construction Products, Asheville, NC - $53,865.00; Republic Drainage Products, Charlotte, NC - $55,021.50; Municipal & Utility Supply Company, Asheville, NC - $60,480.00 and Tri-State Culvert Corporation, Lawrenceville, Georgia. The bid from Tri-State Culvert Corporation was returned due to an improper bid deposit. Bids were reviewed with the Public Works Department and they concur in the recommendation to award the bid to the low bidder, Contech Construction Products, Inc. in the amount of $53,865.00.

Bid awarded to Contech Products in the amount of $53,865.00.

C. Award of bids for bulk sodium chloride (rock salt) for snow and ice control

SUMMARY: Sealed bids were requested and four bids were received - Morton Salt Division of Morton Thiokol, Inc. Chicago, Illinois - $18,978.00; Cargill, Inc., Watkins Glen, NY - $18,990.00; Domtar Industries, Schiller Park, Illinois - $18,990.00; International Salt Company, Clarks Summit, PA. - $19,356.0 Bids were reviewed with the Public Works Department, and they concur in the recommendation

to award the bid to the low bidder, Morton Salt Division of Morton Thiokol, Inc. for an estimated contract amount of $18,978.00.

Bid awarded to Morton Salt Division of Morton Thiokol, Inc. in the amount of $18,978.00.

Upon motion of Councilman Price, seconded by Councilman Michalove, the consent agenda was unanimously approved.

CLAIMS - BETTE DAVIS (STREETS), SHARON BISHOP (WATER), DIANE BOSWELL (PARKS), H. S. LINDSEY (WATER), FRANK CUTSHAW (WATER)

The City Manager presented claims received from Bette Davis (Streets), Sharon Bishop (Water), Diane Boswell (Parks), H. S. Lindsey (Water), and Frank Cutshaw (Water).

Vice Mayor Frank referred the claims to the Corporation Counsel for investigation and recommendation.

MOTION TO FILE PETITION FOR DECLARATORY RELIEF IN SUPERIOR COURT - ZONING ORDINANCE (ASHEVILLE SPEEDWAY)

As directed by the City Council, the City Attorney said he had prepared a Petition for Declaratory Relief in the Superior Court and that a motion would be necessary to authorize the filing of the Petition. This motion was made by Councilman Michalove, seconded by Councilman Price and carried unanimously.

Attorney Slawter said this document will, in effect, ask the Court to decide if the City's Zoning Ordinance is valid and can be enforced with regard to requiring the Asheville Speedway to cease operation by October 21, 1987.

CHARLES PENNY - APPOINTMENT AS DEPUTY CITY CLERK

The City Manager said both the City Clerk and the Deputy City Clerk are out of town. He requested that Council appoint Charles Penny as Deputy City Clerk so that the paperwork approved by Council can be signed and processed.

Councilman Tisdale moved to appoint Charles Penny as Deputy City Clerk. This motion was seconded by Councilman Bratton and carried unanimously.

RESOLUTION NO. 87-164 - RESOLUTION APPOINTING SALLY PEARLMAN AND CELINE LUREY MEMBERS OF THE ASHEVILLE AREA CIVIC CENTER COMMISSION

Vice Mayor Frank said since there will not be a Regular Council Meeting until September 29, 1987, Council needs to appoint members to the Asheville Area Civic Center Commission. She said the terms of office for members O. E. Starnes, III,

Sally Pearlman, and Fred Brown expired on July 1, 1987. She said Mr. Brown has served the two full terms allowed by Council policy. She said the Commission recommends that Council reappoint Mr. Starnes and Mrs. Pearlman and that Celine Lurey be appointed to replace Mr. Brown.

There was a short discussion relative to Mr. Starnes attendance and Council's policy on absences. Council requested that staff provide them with an explanation on Mr. Starnes absences.

Councilman Boland moved for the adoption of Resolution No. 87-164 appointing Sally Pearlman and Celine Lurey members of the Asheville Area Civic Center Commission for 3-year terms, term expiring June 30, 1990. This motion was seconded by Councilman Price and carried unanimously.

Complete text of Resolution No. 87-164 will be found in Resolution Book No. 16, Page 425.

RALPH BISHOP - GAMBLING IN THE CITY OF ASHEVILLE

Ralph Bishop addressed Council relative to gambling in the City of Asheville. He said Chicken Lunsford and J. D. Plemmons are violating criminal statutes every day and nothing is done about it.

ADJOURNMENT

Upon motion of Councilman Tisdale, seconded by Councilman Boland, the meeting adjourned at 5:06 P.M.

MAYOR

CITY CLERK

Wednesday - September 23, 1987 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Kenneth M. Michalove, Norma T. Price, Wilhelmina Bratton, George Tisdale, and Walter Boland; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Deputy City Clerk Carol Hensley.

Absent: Associate City Manager/City Clerk William F. Wolcott, Jr. (vacation)

INVOCATION

The invocation was given by Councilman Bratton.

Scheduling of Public Hearing - Greentree Ridge Nursing Home

Mayor Bissette announced that a public hearing will be held on October 6, 1987 relative to the site plan of Greentree Ridge Nursing Home to be located on Sweeten Creek Road. The plan was prepared by Padgett-Freeman, Architects, for Mission-Thoms Health Services, Inc., Developer.

Public Hearing - Shoppes of Beaver Lake - Merrimon Avenue

Mayor Bissette requested to be excused from participation and vote on the site plan for Shoppes of Beaver Lake since his law firm represents the developer.

Councilman Tisdale moved to excuse Mayor Bissette from participation and vote on the site plan for Shoppes of Beaver Lake. This motion was seconded by Councilman Bratton and carried unanimously.

Vice-Mayor Frank said the Asheville Planning and Zoning Commission at a meeting held September 2, 1987, reviewed a site plan of the proposed Shoppes of Beaver Lake to be located on Merrimon Avenue. The plan was prepared by Danie Johnson, Architect, for Beverly Developments, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project with the following conditions:
1. That signage description be provided to City Council;
2. Subject to compliance with Erosion Control Ordinance;
3. Subject to execution of an agreement to establish a 20' buffer on the Western Steer property; and
4. That developer give special concern to wildlife habitat

during building process and after to avoid silting. The Commission further noted that the public hearing process revealed serious questions with regard to ownership of the right to develop the property in the manner intended. The Commission urges City Council to determine the status of the right to develop the site with regard to boundary survey, the location of the floodway, and any rights the residents of the Lakeview Park Commission might have relative to the use of this parcel.

Vice-Mayor Frank opened the public hearing at 4:07 P.M.

At the request of Vice-Mayor Frank, the Corporation Counsel read the following memorandum.

"MEMORANDUM TO: W. Louis Bissette, Jr., Mayor
and Members of the Asheville City Council

FROM: Bill Slawter, City Attorney

DATE: September 14, 1987

SUBJECT: The Shoppes of Beaver Lake

As you are aware, the Planning and Zoning recommendation in connection with the Shoppes of Beaver Lake group development included a request that City Council look into questions of ownership raised by some of the surrounding neighbors. As I stated to Planning and Zoning just before their motion was adopted, I do not feel that this is an appropriate area of concern for the City Council. The appropriate method of challenging Mr. Beverly's right to develop that property would be by appropriate Court action. For the City to become involved in resolving such questions would require a title examination in connection with each site plan for which approval is requested, and even that would be subject to challenge in the Courts. The City is not required to look beyond the apparent title of a proposed developer, and would be in fact subjecting itself to potential liability in attempting to do so. In taking action on a site plan approval, the City is not taking a position on ownership of the property. That remains a question for the Courts.

A question has also arisen as to why the City would proceed with consideration of the request for site plan approval when some consideration may be given to rezoning in the area. The group development review process established in our zoning ordinance does not automatically delay the group development review process when there is a potential rezoning in progress. It is therefore not inappropriate to proceed with the group plan review, especially in view of the fact that the request for site plan approval preceded the request for rezoning."

The Corporation Counsel advised that Jack Stevens, Attorney for the developer, has requested that Verl Emrick's and

Danie Johnson's statements be made under sworn testimony. He suggested that this request is not inappropriate and if Council so chooses that all witnesses presenting evidence relative to the site plan be sworn as well. He said witnesses just presenting arguments would not necessarily need to be sworn.

Vice-Mayor Frank said Council would take the Corporation Counsel's advice to have those presenting evidence sworn.

The Deputy City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

David Sperling, Court Reporter, administered the sworn statement to Verl Emrick, Planning Director.

Verl Emrick, Director of Planning, summarized the sequence of events leading up to the approval of the site plan for the Shoppes of Beaver Lake. He said project plans were submitted by Danie Johnson, Architect, on July 21, 1987. He said on August 4, 1987 a rezoning petition was submitted to Council with a copy being sent to the Planning and Zoning Commission. He said on August 12, 1987, the Planning and Zoning Commission reviewed the project and requested additional information to resolve several technical problems. He said the project was also reviewed by the Zoning Board of Adjustments on August 31, 1987 seeking a variance on buffering and construction in the flood plain area. He said on September 2, 1987, the Planning and Zoning Commission, again reviewed the project and recommended approval subject to the conditions outlined by Vice-Mayor Frank. He said the Commission also received concerns relative to the widening of Merrimon Avenue. The Commission requested that Council contact the North Carolina Department of Transportation and request that the widening of this particular section of Merrimon Avenue be removed from the Thoroughfare Plan.

Mr. Emrick said the project is proposed to be constructed on Merrimon Avenue on a four acre tract. He said the site is relatively flat and is the site of the old Beaver Lake Club House. He said the property is zoned Commercial Highway. He said the developer plans retail shops and a restaurant which are appropriate and allowable in this zone. He said 151 parking spaces are proposed which would meet all parking requirements. He said the Fire Department reviewed and approved the plans. He said the North Carolina Department of Transportation requested that the plans be modified at the entrance point to align with the road directly across Merrimon Avenue. He said the plans have been amended to reflect this request. He said the project will contain approximately 30,000 square feet. He said all construction and parking requirements have been met and the project will be in compliance.

Mr. Emrick said on August 31, 1987, the Board of Adjustment granted a variance on the buffering requirements of 12' rather than the required 20' of two rows of white pine tree plantings, with the plantings being removed from the northern property line which abuts Merrimon Avenue for site visibility.

He said that the Zoning Board of Adjustments also approved the site plan as it related to construction in the flood plain area of Beaverdam Creek. This approval required no variance in the provisions of the Floodplain ordinance since, 1) parking lots are permitted uses in Floodway zones and 2) the elevation of the area where the buildings are to be constructed are currently 1-1/2 foot above the 100 year flood level.

He said an agreement has been reached between Mr. Beverly, the developer and the adjacent property, Western Steer, a division of Mom and Pops, Inc. He said Mr. Beverly has a letter from Marshall E. Dye with Mom and Pops, Inc. allowing Mr. Beverly the use of their property for buffering.

He said the signage package has been submitted and the Erosion Control Plan has been reviewed and ready for approval by the Engineering Department pending payment of the proper fees. He said the developer is aware of the condition imposed by the Planning and Zoning Commission relative to wildlife habitat.

Mr. Emrick said the Planning and Zoning Commission recommended Council's approval of the project subject to conditions outlined by the Planning and Zoning Commission.

Upon inquiry of Councilman Tisdale, Mr. Emrick said the Planning Staff would also recommend approval and in his opinion the project meets all legal requirements.

Mr. John Stevens, Attorney for Beverly Development Company, spoke in support of the project referring to a letter dated September 18, 1987 to Mayor Bissette. (Letter on file in the City Clerk's Office)

Danie Johnson, Architect, was sworn by the court reporter.

Danie Johnson, Architect, said the project would consist of 30,200 square feet of specialty retail shops in two "L" shaped buildings. He said 27,000 square feet would be used for retail and 3,200 would be used for a restaurant. He said there would be no large anchor stores. He said it was determined that the market for such a development is in North Asheville. He said an agreement had been reached with Western Steer to use 20' of their property for buffering. He presented two sketch concept drawings of the proposed project. He also showed a video of the land and area with a super imposed rendering of the proposed buildings. He said the character of the buildings would be similar to the old Beaver Lake Club House that was on the

property. He said the lighting plan has not been finalized but low-level lights would be utilized. He said the signage would be in compliance with the ordinance using a smaller area than actually allowed. He said individualized illuminated signs would be used. He said it has been suggested that sycamore trees be used along the property line and across the street on Merrimon Avenue along the golf course if allowed.

Mr. Johnson said a traffic study was made in the area and it was determined that the traffic volume created by the development would not substantially increase traffic on Merrimon Avenue. He said it was the developers intention to control erosion from this particular site and to protect the wildlife as much as possible.

Upon inquiry of Councilman Price, Mr. Johnson said the North Carolina Department of Transportation requested that the entrance to the project be parallel with Dover Street is due to the future possibility of traffic signalization. He said there would only be two garbage dumpsters on the project and there would be no individual garbage containers.

Mr. Stevens requested that the following documents be made a part of the proceedings: 1) Letter from Danie Johnson to Mayor; 2) Two renderings of the project; 3) video; 4) photographs.

Mr. George Beverly, Developer, was sworn by the court reporter.

Mr. Beverly said when he purchased the property he was cognizant and sensitive to the Lakeview Park area. He said there would only be two garage dumpsters on the project.

Mr. Stevens said he felt the proposed project is a quality project that complies with the spirit and the letter of the law. He said in his opinion the project would be an addition to the community, particularly with Mr. Beverly's superior performance.

Mr. Tom Bell, attorney representing the residents of Lakeview Park Commission and a resident of the area, was sworn by the court reporter.

Mr. Bell said if the project is developed, the scenic asset of Beaver Lake to Asheville would be gone. He said he felt the entire process of the project had been pushed through. He said no formal application for the project had been made and the $100 fee required had not been paid. He said in his opinion the Zoning Board of Adjustment had not issued a valid variance on the buffering requirement. He said an appeal of the Zoning Board of Adjustment's decision is now being prepared due to the process used by the Board of Adjustment being improper. He said the residents had also pre nted members of Council with a petition,

signed by 300 property owners, requesting a rezoning study of the area. He said while Council is not legally required to cease this development because of this rezoning request he felt it would be the wisest course of action to determine the ultimate zoning of the area.

Mr. Bell said he also felt the right to ownership question should be concluded prior to any approval of the project. He said, as recorded on a map in the Register of Deeds Office, a portion of this property is shown to be lake property which was dedicated to the Lakeview Park property owners use.

Mr. Bell said the residents are also concerned about the increased traffic in the area. He disagreed with the statistics given by the North Carolina Department of Transportation stating that Merrimon Avenue is only at 58% capacity. He said in his opinion Merrimon Avenue is overloaded.

Mr. Bell disputed several portions of the Environmental Impact Statement submitted by the developer. He said the pending 2010 Asheville Comprehensive Plan shows this property to be used for a park.

After being sworn, John Folbes, 28 Beaverbrook Road, reiterated comments made by Mr. Bell. He said he also felt the project was rushed through and 90% of all the residents in the area are opposed to the project.

After being sworn, Inez Redmon of Lakeshore Drive, spoke in opposition to the project.

Carol Kronus, 131 Red Oak Road, speaking on behalf of the Leaf and Petal Garden Club, read a resolution in opposition to the project.

Cecil Myrick, 27 Shorewood Drive, spoke in opposition to the project.

Lelia Cort, 1 Beaverdam Court, spoke in opposition to the project stating that the project would add pollution to the lake and endanger the wildlife presently on the lake.

Jan Tescione, 20 Inglewood Road, spoke in opposition to the project.

Sandra Byrd, 89 Edgelawn Road, spoke in opposition to the project. She presented two alternatives to Council for the use of this property. She suggested that the property be purchased by the City with pending federal funds that would be used for a park or that the City condemn the land and use it as a park/picnic area as indicated by the 2010 Asheville Comprehensive City Plan.

Jim Parker, 8 Beaver Point Park, spoke in opposition to the project stating that the project would increase the traffic on Merrimon Avenue. He said North Asheville does not need more specialty shops. He said the project would also contribute to accumulation of trash in the area.

Joseph Tvedt, 117 Westwood Road, spoke in opposition to the project. He said the developer should obtain an easement, rather than just an agreement, from the adjacent property owner, Western Steer, to use their property for buffering as stated in the Zoning Board of Adjustment minutes.

Turner Rogers, 7 Glen View Road, Chairman of the Lakeview Park Commission, read a letter dated September 11, 1987, in opposition to the project. He said Council should not consider the project until such time as ownership is resolved. (Letter on file in the City Clerk's office)

Dorothy Hart, 43 Martindale Road, spoke in opposition to the project.

A resident of 14 Marlborough Road, spoke in opposition to the project stating that the project would cause an increase in traffic on Merrimon Avenue which is not needed.

Upon inquiry of Councilman Tisdale, referring to Mr. Tvedt's suggestion that an easement be obtained from Western Steer, Mr. Stevens said if an easement is required one would be obtained.

Upon inquiry of Councilman Price, Mr. Bell said the Zoning Board of Adjustment did not grant a valid variance because they did not conduct a proper hearing and this would be subject to a review by the courts.

Upon inquiry of Vice-Mayor Frank, Mr. Beverly said the $100 filing fee had been paid. Mr. Emrick said the ownership question would be a question for the courts.

Vice-Mayor Frank, responding to questions by Sandra Byrd, said the Council appreciates the input of the residents in the 2010 plan. She said there are no federal funds to be used for a park.

Upon inquiry of Councilman Price, Mr. Johnson said if Merrimon Avenue is widened the North Carolina Department of Transportation could take part of their property for a fifth lane on Merrimon Avenue.

Councilman Michalove asked several legal questions relating to the project of the Corporation Counsel. The Corporation Counsel responded stating that the property is properly zoned for this type of development; that if Council changes the zoning of the property in the middle of a group

development process some risk would be involved; property rights of a owner can not be disregarded in a decision for approval of the project without risk; that property can only be condemned for public use. He said several of the questions asked by Councilman Michalove were matters for executive session.

Councilman Tisdale said his residence adjoins the proposed project and he felt Mr. Beverly's superior performance would be an asset to the area. He requested that the following letter be made a part of the minutes relative to his not having a conflict of interest.

"MEMORANDUM TO: George Tisdale, City Council Member

FROM: Bill Slawter, City Attorney

DATE: August 11, 1987

SUBJECT: George Beverly Project, Merrimon Avenue

You requested an opinion concerning a potential conflict of interest in connection with the George Beverly Project on Merrimon Avenue. In connection with your vote when the matter is considered by City Council, it is my opinion that you do not have a conflict of interest since your own financial gain or personal conduct is not at issue. I likewise feel that you do not have a legal conflict of interest with regard to making a presentation before the Planning and Zoning Commission. As we discussed, since City Council appoints the members of the Planning and Zoning Commission, some persons might perceive this as a conflict. Since you have nothing personally to gain in making such a presentation, there is in my opinion no legal conflict. Please let me know if you have any further questions."

A discussion was held relative to the disputes presented in regard to the Environmental Impact Statement submitted by the developer. Mr. Johnson answered questions of Council relative to the revised Environmental Impact Statement.

Karen Fields suggested that Council take time to digest all the comments made during the public hearing and to make the right decision relative to the project.

Vice-Mayor Frank closed the public hearing at 6:55 P.M.

Councilman Michalove moved that Council go into executive session to discuss legal matters relative to the proposed project. This motion was seconded by Councilman Tisdale and carried unanimously.

Councilman Michalove, after hearing legal opinions from the Corporation Counsel, moved for the approval of the site plan for the Shoppes of Beaver Lake subject to the conditions outlined by the Planning and Zoning Commission as well as any other

additional contingencies other members of Council would like to impose. This motion was seconded by Councilman Tisdale.

Councilman Price requested that the following contingencies also be imposed on the approval of the project:

1) That the lighting for the project be kept low-level and that the lighting plan be submitted to City Planning staff for approval to make sure the lights are low-level and non-reflective and only used for security purposes.

2) That sycamore or London Plane trees, a minimum of 8' in height be planted along the developer's property line on Merrimon Avenue as well as the other side of Merrimon Avenue if agreed to by the Country Club of Asheville.

3) That if the Lakeview Park Commission desires to have willow trees planted on the rear portion of the property that the developer, as previously agreed, continue to make them available for at least two (2) years.

4) That there be only two (2) garbage/waste dumpsters on the property at locations proposed and that there be no others allowed.

5) That the developer obtain an easement from Mom and Pops, Inc, Western Steer division, for the use of their property for buffering, easement to be approved by City Attorney.

6) That the site plan approval be conditioned upon the validity of the variance from the buffering requirements granted by the Board of Adjustments on August 31, 1987. In the event that the variance is invalidated by a final adjudication of a court of competent jurisdiction then this site plan approval shall become invalid at that time, unless an alternate variance is granted by the Zoning Board of Adjustment.

Councilman Michalove and Councilman Tisdale accepted these contingencies and the motion carried unanimously.

ADJOURNMENT

Upon motion of Councilman Michalove, seconded by Councilman Bratton, the meeting adjourned at 8:00 P.M.

MAYOR

CITY CLERK

Tuesday - September 29, 1987 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, George Tisdale, and Walter Boland; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Kenneth M. Michalove and Councilman Norma T. Price

INVOCATION

The invocation was given by Councilman Walter Boland.

I. PROCLAMATIONS:

A. **Presentation of National Distinguished Professional Award from National Recreation and Parks Association to Ray Kisiah, Director of Parks, Recreation and Public Facilities.**

Mayor Bissette recognized Beverly Brandes, Southeastern Representative of the National Recreation and Parks Association, who presented Ray Kisiah with the National Distinguished Professional Award, which is the highest honor bestowed upon a professional in the Recreation Field.

Ms. Brandes recognized past and present Parks and Recreation Advisory Board members and the City of Asheville Parks, Recreation and Public Facilities staff.

Mayor Bissette said the City of Asheville has been honored by Ray Kisiah receiving this annual National Award. He commended Mr. Kisiah for his many years of outstanding service to the City of Asheville.

B. **Proclamation - Minority Enterprise Development Week - September 28 - October 2, 1987**

Mayor Bissette read the proclamation which was presented to Ronnie Blythe, Executive Director for Cherokee Business Development Center and Bob Foxx, from the Asheville Business Center.

C. **Proclamation - Nurse-Midwifery Week October 4 - 10, 1987**

Mayor Bissette read the proclamation which was presented to Elizabeth Sciora, from the Asheville Women's Medical Center. Ms. Sciora introduced other associates of Asheville Women's Medical Center.

Karen Barnes, Certified Nurse-Midwife, outlined the events that would be taking place during Nurse-Midwifery Week.

D. Proclamation - "Fire Prevention Week" - October 4 - 10, 1987

Mayor Bissette read the proclamation which was presented to Chief John Rukavina from the Asheville Fire Department.

II. PUBLIC HEARINGS:

II. OLD BUSINESS:

A. Ordinance No. 1651 - Second reading of Ordinance No. 1651, an ordinance amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville", as amended - property located on Hildebrand Street.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held August 12, 1987, considered the petition of Mr. Sidney Shorter et al that Lots 89, 90, 2-1/4, 100, 4, and 6, Sheet 2, Ward 1, be rezoned from CS Commercial Service District to R-3 Residential District. The property is located on Hildebrand Street in the East End/Valley Street Redevelopment Area. After review and discussion, the Commission voted to recommend to City Council that Lots 89, 90, 2-1/4, 100, 4, and 6 and 2-1/2, Sheet 2, Ward 1, be rezoned from CS Commercial Service District to R-3 Residential District. (Staff recommended including Lot 2-1/2 for contiguity although owners had not signed petition). This ordinance was read on first reading on September 15, 1987 with the deletion of Lot 6.

Verl Emrick, Planning Director, said at the request of Council, he had checked and there was no curb cut applications on file with the North Carolina Department of Transportation, the Public Works Department, or the Zoning Department for Lot 6. He said access to Lot 6 would require the approval of the City and the North Carolina Department of Transportation. He said to his knowledge there is no proposed use for this lot.

It was noted that at the first reading of the ordinance Sue Evans, owner of Lot 6 and resident of 12 Bellair Road, and her agent Mike Robinson, real estate broker, objected to Lot 6 being rezoned to R-3 Residential District.

Mr. Ballantyne, representing Sidney Shorter, petitioner for the rezoning, said it is Mr. Shorter's opinion that Lot 6 should be included in the rezoning to R-3 Residential District. He said the City's redevelopment plan also shows Hildebrand Street as residential property. He said deleting Lot 6 from the rezoning would not be compatible with the community since the lot is surrounded by St. James AME Church and private residences. He said commercial development of Lot 6 would destroy the area. He said Lot 6 can not be developed as residential or commercial due to the size of the lot and the required setbacks.

Rev. Willis with St. James AME Church, said the church was concerned about the exemption of Lot 6 from the R-3 Residential District stating that commercial development on Lot 6 would grossly impede the area. He requested that Council accept the recommendation of the Planning and Zoning Commission to include Lot 6 in the rezoning. He said the Housing Authority is in concurrence with the Planning and Zoning Commission.

Upon inquiry of Councilman Tisdale, Rev. Willis said it is certainly a possibility for the church to purchase Lot 6. He said the owner of Lot 6 has not offered to sell the lot.

Rev. Haith said the church had previously tried to purchase Lot 6 but was not successful.

Mrs. W. B. Burton, Chairperson for the Board of Trustees of the St. James AME Church, spoke in support of including Lot 6 in the rezoning.

Councilman Tisdale said it might be in the best interest of Council to continue the second reading of the ordinance if Council is considering including Lot 6 in the rezoning until the owner of Lot 6 can be contacted since she was under the impression during the first reading of the ordinance that Lot 6 had been excluded.

After discussion, Councilman Bratton moved to amend Ordinance No. 1651 to include Lot 6 in the rezoning to R-3 Residential District. This motion was seconded by Councilman Boland and carried unanimously.

On a roll call vote of 5-0, Ordinance No. 1651, as amended, passed on second reading.

Council requested that Mr. Emrick check to see if a curb cut for Lot 6 was previously applied for and to determine if the application was denied.

B. **Approval of sign permit for identification sign to be located at 64 Orchard Street for Booth Barfield Realty.**

Mayor Bissette said Booth Barfield Realty has requested approval of a wall sign for identification purposes at their business at 64 Orchard Street. This request requires the approval of Council pursuant to Zoning Ordinance No. 322 in that the sign will be situated closer than 600' from a limited access highway.

Verl Emrick, Director of Planning, said the sign complies with all requirements of the sign ordinance. He said the sign permit was inadvertantly issued prior to approval of City Council. He said the only requirement for the sign is the approval from Council since the sign is within 600' of a limited access highway.

Councilman Bratton moved to approve the sign permit for the identification sign to be located at 64 Orchard Street for Booth Barfield Realty. This motion was seconded by Councilman Tisdale and carried unanimously.

Councilman Boland requested that the Planning Staff or the newly created Sign Commission develop criteria for Council's approval of such signs within 600' of a limited access highway.

IV. **NEW BUSINESS:**

A. **Ordinance No. 1653 - Ordinance to establish a 20 m.p.h. speed limit on Dunwell Avenue and Fenner Avenue.**

Mayor Bissette said this action will establish a municipal ordinance declaring 20 mph speed limit on Dunwell Avenue and Fenner Avenue. Following a review of this matter, both the Traffic Engineering Division and the Asheville Police Department recommend that this ordinance be approved.

Vice-Mayor Frank moved for the adoption of Ordinance No. 1653. This motion was seconded by Councilman Tisdale.

On a roll call vote of 5-0, Ordinance No. 1653 passed on first reading.

Vice-Mayor Frank moved to suspend the rules and proceed to the second reading of Ordinance No. 1653. This motion was seconded by Councilman Tisdale and carried unanimously.

On a roll call vote of 5-0, Ordinance No. 1653 passed on second reading.

B. **Ordinance No. 1654 - Ordinance amending Section 18-7 of the Code of Ordinances of the City of Asheville regarding the shooting or discharging of firearms, air rifles, spring guns, bows, etc.**

Mayor Bissette said the only change is to provide for the inspection and approval to be by the "Asheville Police Department" rather than by "the Department of Public Safety."

Councilman Boland moved for the adoption of Ordinance No. 1654. This motion was seconded by Vice-Mayor Frank.

On a roll call vote of 5-0, Ordinance No. 1654 passed on first reading.

Councilman Bratton moved to suspend the rules and proceed to the second reading of Ordinance No. 1654. This motion was seconded by Councilman Tisdale and carried unanimously.

On a roll call vote of 5-0, Ordinance No. 1654 passed on second reading.

C. **Ordinance No. 1655 - Budget Ordinance amendment - Appropriation of $15,000 to the Housing Authority for the Hillcrest Enrichment Program.**

Mayor Bissette said this ordinance will amend the annual operating budget ordinance to approve a one year appropriation of $15,000 to the Housing Authority for the Hillcrest Enrichment Program. This appropriation will begin on July 1, 1987 and end on June 30, 1988.

Councilman Tisdale moved for the adoption of Ordinance No. 1655. This motion was seconded by Vice-Mayor Frank.

On a roll call vote of 5-0, Ordinance No. 1655 passed on first and final reading.

Ordinance Book No. 11 Page No. 179

D. **Ordinance No. 1656 - Budget Ordinance amendment - Appropriating current year CDBG Entitlement funds.**

Mayor Bissette said the City of Asheville recently received the Letter of Credit from HUD for $1,077,000 in Community Development Block Grant funds for the current year program. The allocation of these funds were approved by City Council on May 26, 1987 in Resolution No. 87-92. This ordinance will appropriate the funds into the Budget.

Councilman Boland moved for the adoption of Ordinance No. 1656. This motion was seconded by Councilman Tisdale.

On a roll call vote of 5-0, Ordinance No. 1656 passed on first and final reading.

Ordinance Book No. 11 Page No. 180

E. **Motion to reject all bids received for specialized transportation services and to refer the matter back to the Transit Authority for appropriate action.**

Mayor Bissette said this is the same matter which was considered by City Council a couple of months ago. Complaints were received and it was determined to extend the contract with Red Cross and readvertise for bids. The new advertisement for bids has resulted in the Transit Authority's action of September 16, 1987 to recommend to Council that the bids be rejected because they were not responsive, and that further bids be requested as soon as possible.

Vice-Mayor Frank moved to reject all bids received for the specialized transportation services and to refer the matter back to the Transit Authority for appropriate action. This motion was seconded by Councilman Boland and carried unanimously.

V. **CONSENT:**

A. **Resolution No. 87-165 - Resolution of support to amend the General Statutes of North Carolina to provide for the City of Asheville to construct and operate its storm water drainage system as a public enterprise.**

SUMMARY: In order to manage the storm water drainage system in the most efficient manner, the City desires to request the General Assembly of North Carolina to amend the General Statutes of North Carolina to provide for storm water drainage systems to be included in the definition of public enterprises.

Resolution Book No. 16 Page No. 426

B. Resolution No. 87-166 - Resolution authorizing the City Manager on behalf of the City of Asheville to execute a contract with the Housing Authority of the City of Asheville for the operation of Hillcrest Recreation Center and Enrichment Program.

SUMMARY: The Housing Authority of the City of Asheville has requested that the City of Asheville continue funding the Hillcrest Enrichment Program for an additional two-year period in the amount of $15,000.

Resolution Book No. 16 Page No. 427

C. Resolution No. 87-167 - Resolution authorizing the Mayor to enter into a contract for transportation planning services with the Land-of-Sky Regional Council.

SUMMARY: Each year the City contracts with Land-of-Sky Regional Council to assist with certain planning activities as required by the Planning Work Program. These include: Dwelling Unit County and Population Studies for areas outside the City Limits but within the Study Area and a Downtown Parking Inventory and Bicycle Route Planning. The funds have been allocated through Section 104 (f) Planning Funds and were approved by the Transportation Advisory Committee in March, 1987.

Resolution Book No. 16 Page No. 428

D. Resolution No. 87-168 - Resolution authorizing the Mayor to execute on behalf of the City of Asheville Amendment No. 1 to the Federal Aviation Administration Grant Agreement for Project No. 3-37-0005-06.

SUMMARY: The City and County, as co-sponsors and operators of the Asheville Regional Airport have hereto obtained and accepted a grant for planning, development, and land acquisition for project number 3-37-0005-06. Additional funding in the amount of $7,449 was requested to cover certain cost overruns in the project. Notification has been received approving the additional funding and this resolution will authorize the execution of Amendment No. 1 to the Grant Agreement for the additional funding.

Resolution Book No. 16 Page No. 429

E. **Resolution No. 87-169 - Resolution appointing member to the Asheville Area Civic Center Commission.**

SUMMARY: Garrett AlDerfer, from the Chamber of Commerce, resigned as a member of the Asheville Area Civic Center Commission. This resolution will appoint Dianna Jackson, with the Chamber of Commerce Convention Department, to serve the unexpired term of Garrett AlDerfer, term expiring June 30, 1988, or until her successor has been duly appointed and qualified. This resolution will also reappoint O. E. Starnes III, as a member of the Asheville Area Civic Center Commission for a term of three (3) years, term expiring June 30, 1990, or until her successor has been duly appointed and qualified.

Resolution Book No. 16 Page No. 430

F. **Scheduling public hearing - adoption of 2010 Asheville City Comprehensive Plan - for October 6, 1987.**

SUMMARY: On September 3, 1987, the Asheville Planning and Zoning Commission voted to recommend the final Draft of the 2010 Asheville City Plan to the Asheville City Council for approval with several amendments. After the public hearing relative to the plan, a resolution will be considered to adopt the 2010 Asheville City Comprehensive Plan.

G. **Scheduling public hearing - rezoning property located on Ardmore Street - Mr. George Morosani, Petitioner - for October 13, 1987.**

SUMMARY: The Asheville Planning and Zoning Commission at a meeting held September 9, 1987, reviewed the petition of Mr. George Morosani to rezone Ward 7, Sheet 52, Lot 140 from R-2 Residential District to CH Commercial Highway District. The Commission voted to recommend that Ward 7, Sheet 52, Lots 140, 128, 130, 134, and 138, be rezoned from R-2 Residential District to CH Commercial Highway District.

H. **Scheduling public hearing - rezoning property located on Hazel Mill Road and Rose Street - Mrs. Martha Calloway et al - for October 20, 1987.**

SUMMARY: The Asheville Planning and Zoning Commission on September 9, 1987, considered the petition that Ward 6, Sheet 16, Lots 356, 318, 313, 232, and 316, be rezoned from R-3 Residential

District to CH Commercial Highway District. The Commission voted to recommend to City Council that Ward 6, Sheet 16, Lots 316, 320-1/2, 318 and a portion of Lot 356, be rezoned from R-3 Residential District to CH Commercial Highway District.

I. **Scheduling public hearing - Group Development -conversion of second floor of 20 Broadway into four apartment units - Ray Quate - for October 20, 1987.**

SUMMARY: The Asheville Planning and Zoning Commission at a meeting held September 9, 1987, reviewed a site plan of the proposed conversion of the second floor of 20 Broadway into four apartment units. The plan was prepared by Mr. Ray Quate, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project subject to compliance with all building codes.

J. **Scheduling public hearing - Group Development - Additional buildings for Black Forest Restaurant on Hendersonville Road - for October 20, 1987.**

SUMMARY: The Asheville Planning and Zoning Commission at a meeting held September 9, 1987, reviewed a site plan of proposed additional buildings at the Black Forest Restaurant on Hendersonville Road. The plan was prepared by Mr. Kenneth Pankow, Engineer, for Mr. M. B. Elliston, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project subject to the following conditions: 1) Compliance with Erosion Control Ordinance; and 2) A variance on the buffer on the southern property line by the Board of Adjustment.

K. **Scheduling public hearing - Group Development - Expansion of Ingles #3 on Merrimon Avenue - for October 13, 1987.**

SUMMARY: The Asheville Planning and Zoning Commission at a meeting held September 9, 1987, reviewed a site plan of the proposed expansion of Ingles #3 located at 915 Merrimon Avenue. The plan was prepared by Mr. Carroll Hughes, Spaceplan, for Mr. Robert Ingle, Developer, and submitted in accordance with the Group

Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project subject to the following conditions: 1) Compliance with Erosion Control Ordinance; 2) Signage in accordance with Section 30-9-3 of the Zoning Ordinance; and 3) City Council granting a variance of 14-1/2 feet from the required setback of 17-1/2 feet on the southeast corner.

Upon motion of Councilman Tisdale, seconded by Vice-Mayor Frank, the consent agenda was unanimously approved.

CLAIMS - SHERRY SHELTON (INSPECTIONS) - DEWEY FORD (WATER) - JACK INGLE (SANITATION) - ARNOLD KROCHMAL (WATER) - CARRIE BRUCE (WATER) - FRANK TUURI (INSPECTIONS) - DARLENE HIGHTOWER (SANITATION) - JACK PADGETT (FIRE)

The City Manager presented claims received from Sherry Shelton, Dewey Ford, Jack Ingle, Arnold Krochmal, Carrie Bruce, Frank Tuuri, Darlene Hightower, and Jack Padgett.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

LAWSUITS - WILLIE ALLEN AND WALTER ROBERTSON VS. CITY OF ASHEVILLE - JOHN F. TYNDALL, ET AL., VS. CITY OF ASHEVILLE - THOMAS L. THRASH AND WIFE, LORA R. THRASH VS. CITY, ET AL.

The City Manager said the City of Asheville was named a party in lawsuits involving Willie Allen and Walter Robertson (Alleged racial discrimination); John F. Tyndall, et al., (petition challenging annexation of west area); Thomas L. Thrash and wife, Lora R. Thrash et al., (petition challenging annexation of west area).

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

COUNCIL MEETINGS CANCELLED - NOVEMBER 3, 1987 - NOVEMBER 17, 1987

Mayor Bissette announced that the regular scheduled meeting for November 3, 1987 would not be held due to the election and November 17, 1987 due to the North Carolina League of Municipalities Convention in Greensboro.

RALPH BISHOP - COMMENTS RELATIVE TO OBTAINING CITY RECORDS

Ralph Bishop spoke to members of Council relative to his being refused the right to obtain public records relative to James J. Moulds.

Mayor Bissette said the City Attorney would look into his request.

ADJOURNMENT

Upon motion of Councilman Boland, seconded by Councilman Tisdale, the meeting adjourned at 6:00 p. m.

MAYOR

CITY CLERK

Tuesday - October 6, 1987 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Kenneth M. Michalove, Norma T. Price, Wilhelmina Bratton, George Tisdale, and Walter Boland; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Michalove.

APPROVAL OF THE MINUTES - SEPTEMBER 29, 1987

Mayor Bissette announced the approval of the minutes of the September 29, 1987 meeting. He said the minutes of the special meeting of September 23, 1987 are being withheld from approval until a complete transcript of the meeting can be obtained from the court reporter.

I. PROCLAMATIONS:

A. Proclamation - "Mental Illness Awareness Week" - October 4 - 11, 1987

Mayor Bissette read the proclamation and presented the proclamation to Doris Jackson Brewer, Public Relations Coordinator, for the Western Carolina Alliance for the Mentally Ill.

B. Proclamation - "Greek Week" - Week of October 4, 1987

Mayor Bissette read the proclamation and presented the proclamation to Father Ted from the Greek Orthodox Church. Father Ted introduced members of his church who were in attendance at the meeting. They presented members of Council with Greek pastries made by the women of the church.

B.1 - Proclamation - "Meals on Wheels Volunteer Day" - October 8, 1987

Mayor Bissette read the proclamation and presented the proclamation to Ann Flynn, Executive Director of Meals on Wheels , Fran Sayre and Emily Zimmerman.

C. Proclamation - "German-American Day" - October 6, 198

Mayor Bissette read the proclamation proclaiming October 6, 1987 as "German-American Day". He said a copy of the proclamation would be mailed to the individual requesting the proclamation.

II. PUBLIC HEARINGS:

A. Public hearing relative to adoption of 2010 Asheville City Plan.

Resolution No. 87-170 - Resolution of consideration for the adoption of a Comprehensive Plan for the City of Asheville entitled the 2010 Asheville City Plan.

Mayor Bissette said on September 3, 1987, the Asheville Planning and Zoning Commission voted to recommend the final Draft of the 2010 Asheville City Plan to the Asheville City Council for approval with several amendments. After the public hearing relative to the plan, a resolution will be considered to adopt the 2010 Asheville City Comprehensive Plan.

Mayor Bissette opened the public hearing at 4:32 p. m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Mike Moser, Chairman of the Planning and Zoning Commission, said the Planning and Zoning Commission unanimously recommended Council's adoption of the plan. He said the process for the 2010 plan began in April, 1985 and since that time many public hearings were held and many suggested comments and amendments have been included in the final draft. He commended the Planning Staff, the citizens, the Planning and Zoning Commission, and the Alternatives for Asheville Committee for their efforts in coordinating the plan.

Verl Emrick, Director of Planning, said the 2010 plan is designed as a comprehensive plan to serve as a policy guide for the City of Asheville's future. He said the plan is not engraved in stone and implementation of the plan would be through regulatory actions. He said the Planning Staff has been assigned as liaisons to work with implementation of specific portions of the plan. He said Mike Moser has agreed to serve as Chairman of an Advisory Committee to recommend specific actions to implement the plan.

Carol Albrice, with the Planning Department, said the plan is structured for implementation by target dates. She said revision of the zoning ordinance and map, revision of the sign ordinance, and implementation of the

master plan for the downtown area is targeted for implementation within two (2) years. She said the plan would be reviewed and amended as necessary every two (2) years. She said the plan would be continuously monitored with continued community participation. She said the Advisory Committee would be established within the next ninety (90) days.

Mike Moser, Chairman of the Planning and Zoning Commission, reviewed the changes to the plan as recommended by the Planning and Zoning Commission. (A copy of the specific changes are on file in the City Clerk's office.)

Danie Johnson, 181 Lakeshore Drive, Architect and member of the Planning and Zoning Commission, said the 2010 plan addresses the ideas and suggestions of all interested citizens in the City of Asheville. He said the plan is only the beginning and the success of the plan will be in the degree as it is looked upon on as a guide. He said the plan should be continually reviewed, amended and implemented. He said the plan is worthy of Council's consideration.

Karen Fields, of North Asheville, said the plan includes many hours of hard work and reflects ideas for all interested citizens. She urged Council's adoption of the plan.

Upon inquiry of Ralph Bishop, Mayor Bissette said future Council's could implement changes to the plan.

Mayor Bissette said John Stevens, Attorney for the Beverly Development, Inc., requested that the following letter be included in the minutes:

October 2, 1987

Hand Deliver

Honorable W. Louis Bissette, Mayor
Members of City Council
City of Asheville
P. O. Box 7148
Asheville, North Carolina 28807

Re: Group Development Review - Shoppes of Beaver Lake

Dear Mayor Bissette and Members of Asheville City Council:

I am writing on behalf of Beverly Development, Inc. in connection with the public hearing and proposed adoption of the 2010 Plan scheduled for Tuesday, October 6, 1987.

I request that this letter be made part of the record of Council's proceedings.

The colored map which accompanies the 2010 Plan booklet and the text on Page 62 seem to suggest that the property on Merrimon Avenue adjoining Beaver Lake and the Beverly Development is or should be devoted to recreational use.

As Council is aware, this property has been since the adoption of the zoning ordinance in 1958, and is now, zoned Commercial Highway. It was recently approved by the Planning and Zoning Commission and by Council for a Group Development known as the Shoppes of Beaver Lake.

Accordingly, it would be inappropriate for this property to be included in a recreational area in the 2010 Plan. Beverly Development requests that, before adoption, the 2010 Plan be amended to reflect the current and planned use of this property.

Sincerely yours,

John S. Stevens

JSS/csh

cc: Doug Bean
William F. Wolcott, City Clerk
Verl Emrick
George Beverly

Councilman Michalove asked Mr. Emrick if his impression was correct that in reference to the colored map on page 100 that it was his impression that all coloring was "conceptual" and it was explained that way throughout the public meetings to avoid individuals getting "hung up" on specific properties. Mr. Emrick said that is correct.

After some lengthy questioning by Councilman Michalove, Mr. Emrick said that the Beverly Property was not included in the reference to the change in language recommended by the Planning and Zoning Board.

Mayor Bissette closed the public hearing at 5:02 P.M.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Vice-Mayor Frank, seconded by Councilman Boland, Resolution No. 87-170 was unanimously adopted including the recommended changes by the Planning and Zoning Commission.

B. Public hearing relative to issuing Beaver Lake Cab Company three (3) additional taxicab Certificates of Public Convenience and Necessity.

Resolution No. 87-171 - Resolution authorizing the issuance of a Certificate of Public Convenience and Necessity to Beaver Lake Cab Company

Mayor Bissette said Beaver Lake Cab Company has requested that it be allowed to operate three (3) additional taxicabs. Pursuant to Section 27-33 of the Code, a public hearing is required with respect to the issuance of a Certificate of Public Convenience and Necessity for the requested additional taxicabs. This resolution will authorize the requested three (3) additional taxicabs.

Mayor Bissette opened the public hearing at 5:08 P.M.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

The City Manager said the current Taxicab Ordinance is being revised, however, Beaver Lake Cab Company has requested three (3) additional taxicabs under the existing ordinance. He said in his opinion there is no reason the request should be denied under the existing taxicab ordinance.

Eugene Ellison, Attorney representing Beaver Lake Cab Company, said his client meets all the considerations outlined in Chapter 27-33 of the Code of Ordinances. He said his client needs approval for six (6) additional taxicabs but is only asking for three (3).

Upon inquiry of Council, Mr. Ellison said his client has been approved for six (6) taxicabs.

Joe Penland, owner of Blue Bird Transportation Company, said he presently has forty (40) Certificates for the operation of taxicabs. He opposed Council authorizing additional certificates when, in his opinion, the demand for additional taxicabs in the City of Asheville is not needed. He said if the demand existed he would have all forty of his taxicabs in operation. He said he favored a free enterprise in the taxicab business. He said if Council continually authorizes additional certificates for one taxicab company they are not taking into consideration the other companies in the City. He suggested that Council consider the adoption of a new taxicab ordinance and formulate a Taxicab Task Force to find out what is needed before issuing additional

certificates. He presented photographs he had taken on October 5, 1987 showing that Beaver Lake Cab Company is not currently using all the taxicabs he has certificates for.

Bob Jones, Manager of Blue Bird Transportation Company, spoke in opposition to Council authorizing additional certificates.

Mayor Bissette said the new taxicab ordinance would be considered by Council on October 20, 1987.

Upon inquiry of Councilman Price, the Corporation Counsel said Section 27-33 of the Code sets forth seven items which the City Council is to consider prior to issuing a Certificate of Necessity, and that he did not see any problem in the City Council making a determination that Beaver Lake Cab Company was entitled to a Certificate of Necessity in light of those factors.

Upon inquiry of Councilman Bratton, Mr. Elliston said his client would be financially penalized if he waits until the new ordinance is adopted.

After discussion, Mayor Bissette closed the public hearing at 5:36 P.M.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Tisdale, seconded by Councilman Bratton, Resolution No. 87-171 was unanimously adopted authorizing Beaver Lake Cab Company three (3) additional certificates for the operation of taxicabs.

Resolution Book No. 16 Page No. 432

C. Public hearing relative to site plan of Greentree Ridge Nursing Home to be located on Sweeten Creek Road.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held September 23, 1987, reviewed the site plan of Greentree Ridge Nursing Home to be located on Sweeten Creek Road. The plan was prepared by Padgett-Freeman, Architects, for Mission-Thoms Health Services, Inc., Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project subject to: 1) Board of Adjustment approving project as a Conditional Use in the R-3 Residential District; 2) Board of Adjustment granting a variance of 12' on the buffer on the northern property line; 3) Compliance with

the Erosion Control Ordinance; and 4) Plantings on south side of fence with adjacent property owners permission.

Mayor Bissette opened the public hearing at 5:40 P.M.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Planning Director, said the Planning and Zoning Commission recommended approval subject to several conditions. He said the Zoning Board of Adjustments approved the Conditional Use in the R-3 Residential District as well as granted a variance of 12' on the buffer on the northern property line. He said the site is adjacent to the existing Thoms Rehabilitation Facility. He said the project would consist of approximately 36,000 square feet, with 100 beds in the first phase and 40 additional beds in the second phase. He said all the provisions of the ordinance in terms of access and parking are in compliance. He said the developer is currently attempting to obtain an easement from the adjacent property owner, Mr. Waters, for the new access road because of an overlapping property line. He suggested that approval be contingent upon that easement being secured.

Mayor Bissette closed the public hearing at 5:43 P.M.

Councilman Price moved for the approval of the site plan of Greentree Ridge Nursing Home to be located on Sweeten Creek Road subject to the recommendations of the Planning and Zoning Commission and that the developer obtain an easement from the adjacent property owner, Mr. Waters, for the new access road, said easement to be reviewed and approved by the Corporation Counsel. This motion was seconded by Councilman Michalove and carried unanimously.

III. OLD BUSINESS:

A. **Third reading of Ordinance No. 1651 - Ordinance rezoning property located on Hildebrand Street.**

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held August 12, 1987, considered the petition of Mr. Sidney Shorter et al that Lots 89, 90, 2-1/4, 100, 4, and 6, Sheet 2, Ward 1, be rezoned from CS Commercial Service District to R-3 Residential District. The property is located on Hildebrand Street in the East End/Valley Street Redevelopment Area. After review and discussion, the Commission voted to recommend to City Council that Lots 89, 90, 2-1/4, 100, 4, and 6

and 2-1/2, Sheet 2, Ward 1, be rezoned from CS Commercial Service District to R-3 Residential District. (Staff recommended including Lots 6 and 2-1/2 for contiguity although owners had not signed petition). This ordinance was read on first reading on September 15, 1987 and on second reading September 29, 1987.

Mayor Bissette said a request was received from Mrs. Evans, owner of Lot 6, to postpone the third reading for two weeks since she would be out of town.

Upon inquiry of Council, Verl Emrick, Director of Planning, said he had not received a report from the North Carolina Department of Transportation relative to previous curb cut applications being denied.

Councilman Tisdale requested that Mr. Emrick obtain something in writing from the North Carolina Department of Transportation relative to curb cut applications for Lot 6 prior to the third reading of the ordinance.

Councilman Price moved to postpone the third reading of Ordinance No. 1651 until October 20, 1987. This motion was seconded by Councilman Tisdale and carried unanimously.

B. **Ordinance No. 1653 - Third reading of Ordinance No. 1653 - Ordinance amending Section 28-81.2 (b) of Article IV, Speed Regulations, of Chapter 28 of the Code of Ordinances of the City of Asheville.**

Mayor Bissette said this action will establish a municipal ordinance declaring
20 mph speed limit on Dunwell Avenue and Fenner Avenue. Following a review of this matter, both the Traffic Engineering Division and the Asheville Police Department recommend that this ordinance be approved. This ordinance was read on first and second readings on September 29, 1987.

Mayor Bissette said this ordinance was previously read on first and second readings and would not be reread in its entirety.

On a roll call vote of 7-0, Ordinance No. 1653 passed on third and final reading.

Ordinance Book No. 11 Page No. 177

C. **Ordinance No. 1654 - Third reading of Ordinance No. 1654 - Ordinance amending Section 18-7 of the Code of Ordinances of the City of Asheville regarding the shooting or discharging of firearms, air rifles, spring guns, bows, etc.**

Mayor Bissette said the only change is to provide for the inspection and approval to be by the "Asheville Police Department" rather than by "the Department of Public Safety." This ordinance was read on first and second reading on September 29, 1987.

Mayor Bissette said this ordinance was previously read on first and second reading and will not be reread in its entirety.

On a roll call vote of 7-0, Ordinance No. 1654 passed on third and final reading.

Ordinance Book No. 11 Page No. 178

IV. NEW BUSINESS:

A. **Ordinance No. 1657 - Ordinance amending Chapter 28 of the Code of Ordinances of the City of Asheville to provide for civil parking penalties.**

Mayor Bissette this amendment will provide for civil rather than criminal penalties for parking violations and will increase parking penalties to $3.00 for the first offense and $5.00 for the second offense within a 24 hour period. He said the effective date of the ordinance will be January 1, 1988. He said the ordinance is designed to accommodate shoppers in the downtown area and to deter individuals who work downtown from parking in the metered spaces.

Councilman Michalove moved for the adoption of Ordinance No. 1657. This motion was seconded by Councilman Tisdale.

On a roll call vote of 7-0, Ordinance No. 1657 passed on first reading.

Councilman Michalove moved to suspend the rules and proceed to the second reading of Ordinance No. 1657. This motion was seconded by Councilman Tisdale and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1657 passed on second reading.

B. **Ordinance No. 1658 - Budget Ordinance amendment to appropriate funds for the South Grove Street Drainage Project.**

Mayor Bissette said this ordinance will appropriate funds from CDBG Contingency to cover cost overruns in the South Grove Street Drainage project. Additional work items include additional junction boxes, extension

of 30 inch drainage pipe and safety measures resulting from additional depth of original drain pipe.

Vice-Mayor Frank moved for the adoption of Ordinance No. 1658. This motion was seconded by Councilman Boland.

On a roll call vote of 7-0, Ordinance No. 1658 passed on first and final reading.

Ordinance Book No. 11 Page No. 183

C. **Request of the North Carolina Department of Transportation to delete widening of Merrimon Avenue north of Beaver Creek from 1975 Thoroughfare Plan.**

Mayor Bissette said at a public hearing on September 2, 1987 on the "Shoppes of Beaver Lake," the Asheville Planning and Zoning Commission learned that the citizens of the Beaver Lake area were concerned about the proposed widening of Merrimon Avenue north of Beaver Creek and the removal of the trees along the lake.

After discussion, the Commission voted to recommend that City Council send a resolution or a letter to the North Carolina Department of Transportation requesting that this section of the Merrimon Avenue widening be deleted from the amended 1975 Thoroughfare Plan.

Councilman Price moved that the Mayor be authorized to write a letter to the Transportation Advisory Committee and to the North Carolina Department of Transportation requesting that the proposed widening of Merrimon Avenue north of Beaver Creek be deleted from the amended 1975 Thoroughfare Plan. This motion was seconded by Councilman Michalove and carried unanimously.

V. **CONSENT:**

A. **Resolution No. 87-172 - Resolution of intent to close an unnamed alley on West Avon Parkway and calling for a public hearing on November 10, 1987.**

SUMMARY: A petition was received from property owners along a portion of West Avon Parkway requesting that the unnamed alley be closed as a public alley. A public hearing is required prior to the closing of the unnamed alley.

Resolution Book No. 16 Page No. 433-434

B. Resolution No. 87-173 - Resolution of intent to close a portion of Fairview Avenue between Stevens Street and Fairview Road and calling for a public hearing on November 10, 1987.

SUMMARY: A petition was received from property owners along a portion of Fairview Avenue requesting that the portion between Stevens Street and Fairview Road be closed as a public street right of way. A public hearing is required prior to the closing of the unnamed alley.

Resolution Book No. 16 Page No. 435-436

C. Resolution No. 87-174 - Resolution authorizing the Mayor to enter into a Municipal Agreement with the North Carolina Department of Transportation for reinspection and analysis of all public bridges on the Municipal Street System in the City of Asheville, North Carolina.

SUMMARY: The City of Asheville has requested the North Carolina Department of Transportation to perform certain work under the Federal-Aid Highway Bridge Replacement and Rehabilitation Program, said work to consist of the reinspection and analysis of all public bridges on the Municipal Street System in the City of Asheville.

Resolution Book No. 16 Page No. 437

D. Resolution No. 87-175 - Resolution authorizing the City Manager to sign an agreement extending the existing fire protection services to the Veteran's Administration Medical Center at Oteen through November 1, 1987.

SUMMARY: In the course of changing contracting officers, the VA has fallen slightly behind schedule in the renegotiation of its contract with the City for fire protection and related services for Oteen VA Hospital. This resolution authorizes the extension of the present contract to November 1, 1987, by which time it is anticipated that the Council can be presented with a completed agreement for review and authorization.

Resolution Book No. 16 Page No. 438

Upon motion of Councilman Price, seconded by Vice-Mayor Frank the consent agenda was unanimously approved.

OTHER BUSINESS

PLANNING AND ZONING COMMISSION TO CONSIDER LIGHTING PLANS IN GROUP DEVELOPMENT REVIEWS

Councilman Michalove moved that the Planning and Zoning Commission consider lighting plans when considering group developments. This motion was seconded by Councilman Price and carried unanimously.

STATEMENT BY COUNCIL FOR WOMEN'S INVOLVEMENT COUNCIL

Councilman Price noted that during the Pre-Council Work Session it was agreed by all members of Council that a statement be authorized supporting the Women's Involvement Council to contact Buncombe County employers and employees concerning the needs of women in the work force.

APPOINTMENT OF ELLEN CARR TO SIGN COMMISSION

Vice-Mayor Frank moved to appoint Ellen Carr to the Sign Commission. This motion was seconded by Councilman Price and carried unanimously.

EQUAL EMPLOYMENT OPPORTUNITY TASK FORCE - REPORT

Councilman Boland reported that the EEO Task Force will be meeting in the next few weeks to finish the Affirmative Action Plan for the City of Asheville. He said he would be making a report to Council in the near future.

RALPH BISHOP - LOTTERY SALES

Ralph Bishop again spoke to members of Council relative to the lottery sales in the City of Asheville.

ADJOURNMENT

Upon motion of Councilman Price, seconded by Vice-Mayor Frank, the meeting adjourned at 6:15 P.M.

MAYOR

CITY CLERK

Tuesday, October 13, 1987 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter Boland, Kenneth M. Michalove, Norma T. Price, and George Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

Councilman Tisdale asked those in attendance to stand and join him in the Pledge of Allegiance.

MINUTES - September 23, 1987 and October 6, 1987

Mayor Bissette announced that approval of the minutes of the September 23, 1987, and October 6, 1987 meetings would be postponed until October 20, 1987.

I. PROCLAMATIONS

A. Proclamation - Financial Independence Week - October 18-24, 1987

Mayor Bissette read the proclamation and presented it to Mike Lewis, Financial Planner.

B. Proclamation - School Psychology Week - October 11-17, 1987

Mayor Bissette said this proclamation was requested by the North Carolina School Psychology Association and that the proclamation would be mailed to the Association.

II. PUBLIC HEARINGS

A. Public hearing relative to site plan of the proposed expansion of Ingle's #3 located at 915 Merrimon Avenue.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held September 9, 1987, reviewed a site plan of the proposed expansion of Ingle's #3 located at 915 Merrimon Avenue. The plan was prepared by Mr. Carroll Hughes, Spaceplan, for Mr. Robert Ingle, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project subject to the following conditions: 1) Compliance with Erosion Control

Ordinance; 2) Signage in accordance with Section 30-9-3 of the Zoning Ordinance; and 3) City Council granting a variance of 14-1/2 feet from the required setback of 17-1/2 feet on the southeast corner.

Mayor Bissette opened the public hearing at 4:29 P.M.

The City Clerk presented the notice to the public setting the time and date of the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, presented the site plan for the expansion of the present Ingle's Store on Merrimon Avenue. He said this expansion will bring the total structure to approximately 60,000 square feet or almost double of its present size. He said the developer has agreed to provide sidewalks as shown in yellow on the maps distributed. He said a new bus stop has also been approved by the Asheville Transit Authority and its location is also shown on the map.

Mr. Emrick said there was an error included the Planning and Zoning Commission recommendations. He said the variance should be 3 feet and not 14-1/2 feet as shown in the Planning and Zoning Commission's report.

Mr. Emrick said any motion from Council to approve the site plan should include the conditions imposed by the Planning and Zoning Commission.

Carroll Hughes, Architect for the development, said the present store is one of the oldest Ingle's stores, but it ranks number 5 in sales. He said the new facility will contain speciality shops such as First Commercial Bank and a pharmacy. He said the store will also feature neon signage on the inside, carpet in special areas, and murals on the walls. He said he thought the development met or exceeded the requirements of the City of Asheville except for the variance needed for the loading dock.

There was a discussion relative to the type and height of trees that would be used for buffering and the disposition of cardboard and trash. Mr. Hughes said no specific type of tree has been decided on at this time, but that it would be some type that would blend well with the existing pines and hardwoods now in place. He said a dumpster would be located at the store to handle trash and the cardboard boxes would be trucked out and sold after they are baled outside the store. He said the baler would be located to the right hand side of the store.

Councilman Tisdale expressed his personal appreciation to Mr. Bob Ingle for the agreeing to provide the sidewalk on Beaverdam Road in the St. Eugene School area. He said this would be an asset to the City of Asheville and would also provide a safe walk area for the children attending St. Eugene's School.

He also complimented Mr. Hughes on the job he had done on the plans to expand the store.

Mayor Bissette closed the public hearing at 4:51 P.M.

Councilman Tisdale moved to approve the site plan of the proposed expansion of Ingle's Store #3 located at 915 Merrimon Avenue subject to the following conditions: (1) Compliance with the Erosion Control Ordinance; (2) Signage in accordance with Section 30-9-3 of the Zoning Ordinance; (3) 3-foot variance on the southeast corner being granted by the Board of Adjustment; and (4) trees required for buffering to be 7-8 feet high when planted. This motion was seconded by Councilman Price and carried unanimously.

B. Public hearing relative to rezoning property located on Ardmore Street for Mr. George Morosani, Petitioner.

ORDINANCE NO. 1659 - An Ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville, as amended".

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held September 9, 1987, reviewed the petition of Mr. George Morosani to rezone Ward 7, Sheet 52, Lot 140 from R-2 Residential District to CH Commercial Highway District. The Commission voted to recommend that Ward 7, Sheet 52, Lots 140, 128, 130, 134, and 138, be rezoned from R-2 Residential District to CH Commercial Highway District.

Mayor Bissette opened the public hearing at 4:54 P.M.

The City Clerk presented the notice to the public setting the time and date of the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said Mr. Morosani's original petition only requested that Lot 140 be rezoned; however, the Planning and Zoning Commission had included the other lots in their recommendation. He said no opposition had been voiced at the Planning and Zoning Commission Meeting from any of the owners of the other lots.

Mayor Bissette closed the public hearing at 4:59 P.M.

Councilman Michalove moved for the adoption of Ordinance No. 1659. This motion was seconded by Vice Mayor Frank.

Mayor Bissette said copies of the ordinance had previously been distributed to members of City Council, and that the ordinance would not be read unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1659 passed on first reading.

III. OLD BUSINESS

A. **Third reading of Ordinance No. 1657 - An Ordinance amending Chapter 28 of the Code of Ordinances of the City of Asheville regarding parking penalties.**

Mayor Bissette said this amendment will provide for civil rather than criminal penalties for parking violations and will provide for an increase in penalties. This ordinance was read on first and second readings on October 6, 1987.

Mayor Bissette said this ordinance was previously read and will not be reread in its entirety unless there is a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1657 passed on third and final reading.

Complete text of Ordinance No. 1657 will be found in Ordinance Book 11 at page 181-182.

IV. NEW BUSINESS

A. **Ordinance No. 1660 - Ordinance amending Section 19A-11 of the Code of Ordinances of the City of Asheville.**

Mayor Bissette said this amendment will clarify that permanent members of the Classified and Administrative Service are entitled to a pre-disciplinary conference prior to dismissal, involuntary demotion or suspension without pay in excess of five (5) working days. Temporary, seasonal, and part-time employees will only be entitled to the normal grievance process which includes a post-disciplinary conference.

Mayor Bissette said copies of this ordinance were previously distributed to members of council and would not be read in its entirety unless there was a specific request to do so.

Councilman Michalove moved for the adoption of Ordinance No. 1660. This motion was seconded by Vice Mayor Frank.

On a roll call vote of 7-0, Ordinance No. 1660 passed on first reading.

Councilman Michalove moved to suspend the rules and proceed to the second reading of Ordinance No. 1660. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1660 passed on second reading.

Councilman Michalove again moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1660. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1660 passed on third and final reading.

Complete text of Ordinance No. 1660 will be found in Ordinance Book 11 at Page 185-188.

V. CONSENT

A. Resolution No. 87-176 - Resolution appointing members to the Planning and Zoning Commission.

Summary: This resolution will reappoint Wanda Henry Coleman, Michael D. Moser, and Danie Johnson as members of the Planning and Zoning Commission to serve two (2) year terms, terms expiring August 14, 1989, or until their successors are duly appointed and qualified.

Resolution Book 16, Page 439.

B. Resolution No. 87-177 - Resolution appointing members to the Recreation Board.

Summary: This resolution will reappoint Charles Bullman, Larry Kimel, and Sherman Williams as members of the Recreation Board to serve three (3) year terms, terms expiring June 30, 1990, or until their successors are duly appointed and qualified.

Resolution Book 16, Page 440.

C. Resolution No. 87-178 - Resolution appointing members to the Board of Electrical Examiners.

Summary: This resolution will reappoint E. Frank Davis, Walter J. Harlow, Jonathan D. Smith, and Malachie Cromartie, as members of the Board of Electrical Examiners to serve two (2) year terms, terms expiring July 1, 1989, or until their successors are duly appointed and qualified.

Resolution Book 16, Page 441.

D. Resolution No. 87-179 - Resolution appointing members to the Board of Examiners for Motion Picture Operators.

Summary: This resolution will reappoint Roy B. Gibbs, as a member of the Motion Picture Operators Board of Examiners to serve a two (2) year term, term expiring July 1, 1989, or until his successor is duly appointed and qualified.

Resolution Book 16, Page 442.

E. Resolution No. 87-180 - Resolution appointing members to the Asheville-Buncombe Crime Stoppers Committee.

Summary: This resolution will reappoint Virginia Washington and Elliott Eki as members of the Asheville-Buncombe Crime Stoppers Committee to serve three (3) year terms, terms expiring June 30, 1990, or until their successors are duly appointed and qualified.

Resolution Book 16, Page 443.

F. Scheduling public hearing relative to Highland Gate Subdivision for October 27, 1987.

Summary: The Asheville Planning and Zoning Commission approved the preliminary plat of Highland Gate Subdivision (then called Vance Gap Road Subdivision) on March 25, 1987, subject to City Council granting a variance on the road and cul-de-sac width from 50' to 40'. Said variance was granted on August 25, 1987. The final plat is submitted for Council's approval.

G. Resolution No. 87-181 - Resolution of intent to close Syrlin Street and calling a public hearing for November 10, 1987.

Summary: A petition was received on July 17, 1987 from the property owner along a portion of Syrlin Street. The petition requested that a portion of Syrlin Street, be closed as a public street right of way.

Councilman Price moved for the adoption of the consent agenda. This motion was seconded by Vice Mayor Frank and carried unanimously.

Complete text of Resolution No. 87-181 will be found in Resolution Book No. 16 at page 444.

VI. OTHER BUSINESS

A. CLAIMS - ACE APPLIANCE (FIRE), ORANGEBURG INDUSTRIES (WATER), RICK WORLEY (STREETS), SANDRA BROWN (POLICE), STEVE SUMMEY (WATER), MRS. CHARLES H. McGOWAN (WATER), ABBY A. BATTONI (WATER), JOHN D. McCLAIN, JACK H. SPIVEY

The City Manager presented claims received from Ace Appliance (Fire), Orangeburg Industries (Water), Rick Worley (Streets), Sandra Brown (Police), Steve Summey (Water), Mrs. Charles H. McGowan (Water), Abby A. Battoni (Water), John D. McClain, II (Fire), and Jack H. Spivey (Streets).

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

B. LAWSUITS - BASF CORPORATION VS. CITY OF ASHEVILLE - GEORGE HOWARD, ET AL., VS. BOARD OF ADJUSTMENT, ET AL. - DARYL E. UNRUH AND WIFE, GRACE E. UNRUH VS. CITY OF ASHEVILLE

The City Manager said the City of Asheville was named a party in lawsuits involving BASF Corporation (Petition challenging annexation of west area), George Howard, et al., (Appeal from Board of Adjustment Decision), and Daryl E. Unruh and wife, Grace E. Unruh (Appeal from Board of Adjustment Decision).

Mayor Bissette referred the lawsuits to the Corporation Counsel for investigation and recommendation.

C. MAYOR BISSETTE - RESOLUTION ADOPTED BY COALITION OF ASHEVILLE NEIGHBORHOODS RELATIVE TO REGULAR MEETING TIMES OF ASHEVILLE CITY COUNCIL AND BOARD AND COMMISSIONS APPOINTED BY THE ASHEVILLE CITY COUNCIL

Mayor Bissette said he had received a copy of a resolution adopted by the Coalition of Asheville Neighborhoods at their meeting on October 1st. Mayor Bissette read the resolution and said the Coalition of Asheville Neighborhoods is requesting that the Asheville City Council and the Boards and Commissions appointed by City Council hold their regular meetings no later or no earlier than 5:00 P.M. in order to give all citizens the opportunity to attend.

Mayor Bissette said Council Members need to think about this and let him know their feelings so he can respond to the resolution.

D. MAYOR BISSETTE - MIKE SUMMEY LETTER - REQUEST TO SERVE ON SIGN COMMISSION

Mayor Bissette said he had received another letter from Mike Summey requesting that Council appoint him and another sign industry representative to the Sign Commission. Mayor Bissette said that his concern from the beginning has been that the perception by the public will be that the Commission is somehow unfair or unbalanced in its makeup. He said he believes the Commission is fair and balanced, but that he still felt Mr. Summey should be appointed to the Commission.

Councilwoman Bratton said she felt whether the Commission is impartial or not, the perception out there is that it is. She said she didn't see any problem in appointing Mr. Summey to the Commission.

Councilman Boland said since Mr. Summey has made it clear that he doesn't want a change in the sign ordinance and since the Commission is supposed to recommend change, he said he felt there was no reason to appoint Mr. Summey to the Commission.

For lack of a motion, the request of Mr. Summey to be appointed to the Sign Commission was not acted upon.

E. RESOLUTION NO. 87-182 - RESOLUTION AUTHORIZING THE CITY MANAGER TO DIRECT THE CITY ATTORNEY TO INSTITUTE APPROPRIATE ACTION FOR ENFORCEMENT OF THE CODE OF ORDINANCES

Mayor Bissette read the resolution.

The City Manager said this resolution will authorize him to direct the Corporation Counsel to institute all appropriate legal proceedings in the Courts of Buncombe County for the civil enforcement of the Code of Ordinances of the City of Asheville. He said this would expedite the process in that violations would no longer have to approved by City Council on a case by case basis.

Vice Mayor Frank moved for the adoption of Resolution No. 87-182. This motion was seconded by Councilman Tisdale and carried unanimously.

Complete text of Resolution No. 87-182 will be found in Resolution Book 16, Page 445.

F. RESOLUTION NO. 87-183 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE A MUNICIPAL AGREEMENT WITH THE N. C. DEPARTMENT OF TRANSPORTATION FOR PROJECT NO. 8.1900801 (U-90) - IMPROVEMENT OF US 25 SOUTH FROM I-40 TO THE BLUE RIDGE PARKWAY

Mayor Bissette said this resolution will authorize him to execute a Municipal Agreement with the N. C. Department of Transportation for Project No. 8.1900801 (U-90) - Improvement of US 25 south from I-40 to the Blue Ridge Parkway.

Mayor Bissette said it was the consensus of City Council for him to execute a revised agreement with the N. C. Department of Transportation. He said the revised agreement provides for no participation by the City of Asheville for the acquisition of right-of-way costs. He said the City is willing to pay its fair share on future projects of importance and interest to the City of Asheville, but that this would be at the City's discretion.

Councilman Michalove moved for the adoption of Resolution No. 87-183. This motion was seconded by Councilman Boland and carried unanimously.

Complete text of Resolution No. 87-183 will be found in Resolution Book 16 at Page 446.

G. RESOLUTION NO. 87-184 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE A MUNICIPAL AGREEMENT WITH THE N. C. DEPARTMENT OF TRANSPORTATION FOR A PROJECT NO. 8.1841101 (U-592) - IMPROVEMENT OF NC 63 (LEICESTER HIGHWAY) FROM US 19-23 (PATTON AVENUE) NORTHWEST TO THE ASHEVILLE CITY LIMITS

Mayor Bissette said this resolution will authorize him to execute a Municipal Agreement with the N. C. Department of Transportation for Project No. 8.1841101 (U-592) - Improvement of NC 63 (Leicester Highway) from US 19-23 (Patton Avenue) Northwest to the Asheville City Limits.

Mayor Bissette said it was the consensus of City Council for him to execute a revised agreement with the N. C. Department of Transportation. He said the revised agreement provides for no participation by the City of Asheville for the acquisition of right-of-way costs. He said the City is willing to pay its fair share on future projects of importance and interest to the City of Asheville, but that this would be at the City's discretion.

Councilman Michalove moved for the adoption of Resolution No. 87-184. This motion was seconded by Councilman Boland and carried unanimously.

Complete text of Resolution No. 87-184 will be found in Resolution Book 16, Page 447.

ADJOURNMENT

Upon motion of Councilman Boland, seconded by Councilman Michalove, the meeting adjourned at 5:30 P.M.

MAYOR

CITY CLERK

Tuesday - October 20, 1987 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Kenneth M. Michalove, Norma T. Price, Wilhelmina Bratton, George Tisdale, and Walter Boland; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Price.

APPROVAL OF MINUTES

Mayor Bissette announced the approval of the minutes of the October 13, 1987 meeting.

RESOLUTION NO. 87-185 - RESOLUTION IN MEMORY OF J. WELDON WEIR

Mayor Bissette read the resolution in memory of J. Weldon Weir.

Upon motion of Councilman Tisdale, seconded by Councilman Bratton, Resolution No. 87-185 was unanimously adopted.

Complete text of Resolution No. 87-185 will be found in Resolution Book No. 16 at Page 448.

I. PROCLAMATIONS:

A. Proclamation proclaiming October 18 - 24 as "National Business Week".

Mayor Bissette read the proclamation and presented a copy to Sherry Jones, President of Business Professional Women's Organization.

B. Proclamation proclaiming October 24 as "MADD/Volkswagen Drive for Life Day".

Mayor Bissette proclaimed October 24 as "MADD/Volkswagen Drive for Life Day". He said he presented a copy at a Mothers Against Drunk Driving function on October 20, 1987

II. PUBLIC HEARINGS:

A. Public hearing relative to rezoning property located on Hazel Mill Road and Rose Street for Mrs. Martha Calloway et al.

Mayor Bissette said the Asheville Planning and Zoning Commission on September 9, 1987, considered the petition that Ward 6, Sheet 16, Lots 356, 318, 313, 232, and 316, be rezoned from R-3 Residential District to CH Commercial Highway District. The Commission voted to recommend to City Council that Ward 6, Sheet 16, Lots 316, 320-1/2, 318 and a portion of Lot 356, be rezoned from R-3 Residential District to CH Commercial Highway District.

Mayor Bissette opened the public hearing at 4:39 P.M.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Planning and Zoning Commission, after considering the rezoning request, recommended that the request be modified to alleviate too large of an area intruding on residential property. He said a protest petition opposing the rezoning was received and contained sufficient number of signatures to require an affirmative vote of 2/3 of members of Council to pass the rezoning request.

Upon inquiry of Councilman Price, Mr. Emrick said the last rezoning request for this area had been denied by Council due to encroachment into a residential area and due to potential traffic hazards.

Conrad Youngberg, a resident of the area, strongly opposed the commercial rezoning. He presented maps showing the current layout of the area showing potential problems if the area is rezoned to commercial. He said he was also concerned about increase in traffic in the area since the roads are narrow. He said to rezone the area commercial would be a punishment to the neighborhood.

Betty McFeature, owner of property requested to be rezoned, spoke in support of the rezoning. She said the area is already commercially zoned. She said she had been approached by many developers for the purchase of her property and the property is considered to be prime property for commercial since it is near David Hall's Car Lot and many other commercial establishments.

Hubert Smith, 18 Hansel Avenue, spoke in opposition to the rezoning stating that the petitioners had not lived in the neighborhood in the last thirty years and the

residents of the area would like to keep the area as a residential neighborhood.

Martha Calloway, sister of Betty McFeature, also spoke in support of the rezoning.

Mrs. Kanose spoke in opposition to the rezoning.

Mayor Bissette closed the public hearing at 5:07 P.M.

After discussion, Councilman Price moved that the recommendation of the Planning and Zoning Commission to approve the rezoning request be denied. She further requested that city staff check to determine if David Hall's Car Lot in this particular area complies with all city ordinances and that the Traffic Engineer review Hansel Avenue for truck traffic restrictions. This motion was seconded by Councilman Boland and carried unanimously.

B. **Public hearing relative to a site plan of the proposed conversion of the second floor of 20 Broadway into four apartment units.**

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held September 9, 1987, reviewed a site plan of the proposed conversion of the second floor of 20 Broadway into four apartment units. The plan was prepared by Mr. Ray Quate, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project subject to compliance with all building codes.

Mayor Bissette opened the public hearing at 5:15 P.M.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the developer proposes to convert the second floor of 20 Broadway into four apartments and use the first floor for retail space. He said the total area would consist of approximately 4,000 square feet.

Mayor Bissette closed the public hearing at 5:16 P.M.

Vice-Mayor Frank moved to approve the site plan of the proposed conversion of the second floor of 20 Broadway into four apartment units subject to the recommendations of the Planning and Zoning Commission. This motion was seconded by Councilman Price and carried unanimously.

C. **Public hearing relative to the site plan of proposed additional buildings at the Black Forest Restaurant on Hendersonville Road.**

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held September 9, 1987, reviewed a site plan of proposed additional buildings at the Black Forest Restaurant on Hendersonville Road. The plan was prepared by Mr. Kenneth Pankow, Engineer, for Mr. M. B. Elliston, Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project subject to the following conditions: 1) Compliance with Erosion Control Ordinance; and 2) A variance on the buffer on the southern property line by the Board of Adjustment.

Mayor Bissette opened the public hearing at 5:17 P.M.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the developer proposes to construct eight (8) residential units for executives visiting the area and professional office space for a dentist and a doctor.

Mayor Bissette closed the public hearing at 5:20 P.M.

Councilman Tisdale moved to approve the site plan of the proposed additional buildings at the Black Forest Restaurant on Hendersonville Road subject to the recommendations of the Planning and Zoning Commission. This motion was seconded by Vice-Mayor Frank and carried unanimously.

III. OLD BUSINESS:

A. **Ordinance No. 1651 - Third reading - Ordinance rezoning property located on Hildebrand Street.**

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held August 12, 1987, considered the petition of Mr. Sidney Shorter et al that Lots 89, 90, 2-1/4, 100, 4, and 6, Sheet 2, Ward 1, be rezoned from CS Commercial Service District to R-3 Residential District. The property is located on Hildebrand Street in the East End/Valley Street Redevelopment Area. After review and discussion, the Commission voted to recommend to City Council that Lots 89, 90, 2-1/4, 100, 4, and 6 and 2-1/2, Sheet 2, Ward 1, be rezoned from CS Commercial Service District to R-3 Residential District.

(Staff recommended including Lots 6 and 2-1/2 for contiguity although owners had not signed petition). This ordinance was read on first reading on September 15, 1987 and on second reading September 29, 1987. The third reading of the ordinance was postponed until October 20, 1987.

Mayor Bissette said this ordinance was previously read on first and second readings and would not be reread in its entirety.

Sue Evans, 12 BellAir Road, owner of Lot 6, again strongly opposed the rezoning or the placing of any restrictions placed on her property. She said if her property is rezoned the high value of the land would be taken away and she would have no other recourse than to seek satisfaction in a court of law.

Mr. Ballantyne, representing Sidney Shorter, petitioner for the rezoning, said Lot 6 should be included in the rezoning to R-3 Residential District. He said the City's redevelopment plan also shows Hildebrand Street as residential property. He said deleting Lot 6 from the rezoning would not be compatible with the community since the lot is surrounded by St. James AME Church and private residences. He said commercial development of Lot 6 would destroy the area. He said Lot 6 can not be developed as residential or commercial due to the size of the lot and the required setbacks. He requested that Council accept the recommendation of the Planning and Zoning Commission that all the north side of Hildebrand Street be residential in order not to break up continuity.

Mike Robinson, Real Estate Broker representing Ms. Evans, spoke in opposition to rezoning Lot 6. He said the present zoning of Lot 6 allows for commercial building on the lot. He said a single story, 1,200 square foot, building could be placed on the lot. He said the lot, with its present zoning, is a very marketable lot.

A discussion was held, instituted by Councilman Tisdale, relative to the tax value of Lot 6. It was determined that the tax value of Lot 6 is $1,600. Mr. Robinson said in his opinion Lot 6 would have a fair market value of abour $25,000 to $35,000.

A discussion was held relative to the requirements of building on Lot 6. Mr. Emrick said in his opinion construction on Lot 6 could not take place without a variance from the Zoning Board of Adjustment as a Conditional Use, under the current or proposed zoning.

Mrs. Burton, member of the St. James AME church, requested that Council have Lot 6 remain zoned residential. She said the East End Community Organization has also recommended that Lot 6 be residential.

Mayor Bissette said the ordinance as presently written and being voted on for the third reading includes Lot 6 as a R-3 Residential designation.

On a roll call vote of 7-0, Ordinance No. 1651 passed on third and final reading.

Complete text of Ordinance No. 1651 will be found in Ordinance Book No. 11 at page 173-174.

B. Ordinance No. 1659 - an ordinance amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville," as amended, rezoning property located on Ardmore Street (George E. Morosani, et al., property).

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held September 9, 1987, reviewed the petition of Mr. George Morosani to rezone Ward 7, Sheet 52, Lot 140 from R-2 Residential District to CH Commercial Highway District. The Commission voted to recommend that Ward 7, Sheet 52, Lots 140, 128, 130, 134, and 138, be rezoned from R-2 Residential District to CH Commercial Highway District.

Mayor Bissette said this ordinance was previously read on first reading and will not be reread in its entirety.

On a roll call vote of 7-0, Ordinance No. 1659 passed on second reading.

Councilman Michalove moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1659. This motion was seconded by Councilman Tisdale. On a voice vote of 4-3, Councilman Michalove's motion failed with Mayor Bissette, Vice-Mayor Frank and Councilman Price voting "no." The Corporation Counsel advised that a vote to suspend the rules and proceed on ordinance readings requires a 2/3 vote of Council.

Mayor Bissette, Vice-Mayor Frank, and Councilman Price said the reason they voted "no" on the motion was it has been a Council policy not to have more than one reading on a rezoning ordinance at one meeting except under unusual circumstances.

COUNCILMAN TISDALE REQUEST TO BE EXCUSED

At Councilman Tisdale's request, Vice-Mayor Frank moved to excuse Councilman Tisdale from the meeting. This motion was seconded by Councilman Boland and carried unanimously.

IV. NEW BUSINESS:

A. **Ordinance amending Chapter 27 (Taxicabs) of the Code of Ordinances of the City of Asheville.**

Mayor Bissette announced that this ordinance would be considered on October 27, 1987 at the request of the taxicab operator's attorney and at Councilman Tisdale's request.

V. CONSENT:

A. **Resolution No. 87-186 - Resolution of support for major regional transportation projects.**

SUMMARY: The Land-of-Sky Regional Council has requested that the Asheville City Council endorse a resolution urging support for the earliest possible completion of the Brevard Connector project and the placement of U. S. 19 from Mars Hill to the Tennessee line in the North Carolina Transportation Improvement Plan and expedition of its planning, right-of-way acquisition and construction.

Councilman Price requested that a copy of the resolution be forwarded to Sara Morris at A-B Technical Institute.

Councilman Boland also requested that all governmental agencies continue supporting these projects.

Resolution Book No. 16 -Page 449

B. **Resolution No. 87-187 - Resolution authorizing an amendment to the supplemental water agreement.**

SUMMARY: The City and County entered into an agreement dated October 29, 1981, known as the Water Agreement. Said agreement was superceded by a Supplemental Water Agreement dated August 18, 1987. A further amendment of said agreement is now deemed appropriate in order to authorize employees of the City or County who are also elected officials to be appointed to the Water Authority. This resolution will authorize the Mayor to execute such an amendment to the Supplemental Water Agreement.

Upon motion of Councilman Michalove, seconded by Councilman Boland, the consent agenda was unanimously approved.

COUNCILMAN MICHALOVE - REQUEST FOR CITY ATTORNEY TO AMEND COUNCIL RULES AND PROCEDURES

Councilman Michalove requested that the City Attorney draft an amendment to the City Council rules and procedures to establish a policy on voting on matters of rezonings.

RESOLUTION NO. 87-188 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A LETTER OF INDEMNITY FOR THE STORAGE OF STORM DRAINAGE PIPE FOR THE CHEROKEE ROAD STORM DRAINAGE PROJECT

The City Manager said the City of Asheville is using its own forces to renovate the storm drainage system on or near Cherokee Road and it would provide greater efficiency for the project if the storm drainage pipe could be stored close to the project. The property owner of vacant property near the project will consent to the City's storage of the storm drainage pipe on his property provided the City provide the property owner with a letter of indemnity.

Upon motion of Councilman Michalove, seconded by Vice-Mayor Frank, Resolution No. 87-188 was unanimously adopted.

Complete text of Resolution No. 87-188 will be found in Resolution Book No. 16 at page 451.

CLAIMS - DON WHITAKER (SANITATION)

The City Manager presented a claim received from Don Whitaker (Sanitation).

LAWSUIT - JOHN D. GEORGE V. ASHEVILLE-BUNCOMBE WATER AUTHORITY (INADEQUATE WATER PRESSURE)

The City Manager said the City was named a party in a Small Claims action filed on October 1, 1987 involving John D. George v. Asheville-Buncombe Water Authority (inadequate water pressure).

RALPH BISHOP - LOTTERY SALES

Ralph Bishop again spoke to members of Council relative to lottery sales in the City of Asheville.

ADJOURNMENT

Upon motion of Councilman Price, seconded by Councilman Boland, the meeting adjourned at 6:30 P.M.

MAYOR

CITY CLERK

Tuesday - October 27, 1987 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Kenneth M. Michalove, Norma T. Price, Wilhelmina Bratton, George Tisdale, and Walter Boland; Corporation Counsel William F. Slawter; Assistant City Manager Charles Penny; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: City Manager Douglas O. Bean

INVOCATION

The invocation was given by Mayor Bissette.

APPROVAL OF MINUTES OF SEPTEMBER 23, 1987 MEETING.

Mayor Bissette announced the approval of the minutes of the September 23, 1987 meeting with several noted amendments.

APPROVAL OF MINUTES OF OCTOBER 6, 1987 MEETING.

Mayor Bissette announced the approval of the minutes of the October 6, 1987 meeting with several noted amendments.

APPROVAL OF MINUTES OF OCTOBER 20, 1987 MEETING.

Mayor Bissette announced the approval of the minutes of the October 20, 1987 meeting with several noted amendments.

I. PROCLAMATIONS:

A. Proclamation - Alzheimer's Disease Awareness Month - November, 1987.

Mayor Bissette proclaimed the month of November, 1987 as "Alzheimer's Disease Awareness Month."

II. PUBLIC HEARINGS:

A. Public hearing relative to Highland Gate Subdivision.

Mayor Bissette said the Asheville Planning and Zoning Commission approved the preliminary plat of Highland Gate Subdivision (then called Vance Gap Road Subdivision) on March 25, 1987, subject to City Council granting a variance on the road and cul-de-sac width from 50' to 40'. Said variance was granted on August

25, 1987. The final plat is now submitted for Council's approval.

Mayor Bissette opened the public hearing at 4:34 P.M.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Planning and Zoning Commission had approved the preliminary plat and Council had approved the variances on the road and cul-de-sac width. He said the Traffic Engineer had inspected the proposed streets and determined that the streets will meet city specifications and the developer will dedicate the streets as public streets. He said the plat is being amended to reflect that the streets will be public streets. He said curb and gutter installation is shown on the plat. He said the plat is now ready for recording after approval from Council.

Mayor Bissette closed the public hearing at 4:35 P.M.

Councilman Bratton moved for the approval of the site plan for the Highland Gate Subdivision. This motion was seconded by Councilman Boland and carried unanimously.

III. OLD BUSINESS:

A. Ordinance No. 1659 - Third reading of Ordinance No. 1659, an ordinance amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville," as amended, rezoning property located on Ardmore Street
(George E. Morosani, et al., property)

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held September 9, 1987, reviewed the petition of Mr. George Morosani to rezone Ward 7, Sheet 52, Lot 140 from R-2 Residential District to CH Commercial Highway District. The Commission voted to recommend that Ward 7, Sheet 52, Lots 140, 128, 130, 134, and 138, be rezoned from R-2 Residential District to CH Commercial Highway District.

This ordinance was read on first reading on October 13, 1987 and on second reading on October 20, 1987.

Mayor Bissette said this ordinance was previously read on first and second readings and will not be reread in its entirety.

On a roll call vote of 7-0, Ordinance No. 1659 passed on third and final reading.

Ordinance Book No. 11 Page No. 184.

IV. NEW BUSINESS:

A. Report from Bele Chere Board of Directors on the economic impact of Bele Chere 1987.

Jim Daniels, Chairman of the Bele Chere Board of Directors, said Pro-gen Research of Greenville, South Carolina has completed its Festival Market Survey. He said this is Pro-Gen's second year to conduct the survey for Bele Chere. He said the following facts were determined from the survey.

- Official crowd estimated for 1987 is over 250,000;
- Approximately 80,000, of 33%, were from out of town;
- 88% of those who attended came specifically for Bele Chere; this figure has doubled from the '86 figures;
- Almost 70% had attended the Festival previously;
- local adult attendees spent approximately $52 per person;
- out-of-town adult attendees spent approximately $95 per person;

Economic Impact for the City is estimated at:
- $12.5 million - up over a million from the estimated '86 figures;
- Roughly 73% in attendance were between the ages of 25-44 and almost 75% earned over $20,000 annually;
- most importantly, over 95% attending gave the Festival positive marks and promised to return next year;
- Public relations and marketing effort undertaken on behalf of Bele Chere '87 had an estimated value well in excess of $500,000;
- 72 page Festival Supplement had 36 pages of sold advertising space - our best ever - and distribution of almost 125,000 copies;
- over 30,000 Festival brochures and posters were distributed over Western North Carolina;
- The Bele Chere story, through television, radio, and print reached into a 12 state area;
- Festival's good reputation is spreading all over the Southeast;
- Had over 100 vendors and almost 100 performing acts in '87. Received overwhelmingly positive response from public and almost unanimous support of vendors and entertainers alike to participate in Bele Chere '88;
- Festival has become a very successful marketing and promotional tool for many area firms;
- has been an economically satisfying endeavor for our

sponsors to the extent that many are already committing to next year and some are even expressing interest in 'lockingin' to long-term sponsorships.
- Bele Chere '88 - 10th Anniversary Celebration - already in the planning stages;
- with Asheville's future heavily dependent on tourism, city-wide festivals can play a major role in boosting community pride and involvement as well as providing short and long-term economic boosts to the area.

B. **Ordinance amending Chapter 27 (Taxicabs) of the Code of Ordinances of the City of Asheville.**

Mayor Bissette said after numerous meetings with the taxicab owners and operators Chapter 27, Taxicabs, has been rewritten.

Corporation Counsel Slawter reviewed the proposed ordinance stating that the amended ordinance would create more of an open market for taxicab operations. He said taxicab companies could operate as many taxicabs as they desired providing they meet all the requirements set forth in the ordinance. He said the ordinance provides for a Taxicab Inspector, under the Motor Transport Division, charged with enforcement of the ordinance. He said taxicab owners had expressed concern relative to insurance requirements, rates, and inspection fees. He said the ordinance provides for a thorough inspection of each taxicab and background investigations of taxicab owners and drivers. He said the ordinance includes procedures for revocation and an appeal process from the decision of the Taxicab Inspector to the City Manager.

Wade Hall, Attorney representing all taxicab owners, said many of the changes recommended by the taxicab owners were incorporated into the ordinance; however, many were not. He said the operators were concerned about insurance requirements, rates, and inspection fees. He spoke at length on several objections to the ordinance and said he would present his objections in writing prior to the second reading of the ordinance.

After discussion, Councilman Price moved for the adoption of the ordinance incorporating the following into the proposed ordinance: 1) That the insurance requirements be the same as required by state statutes; 2) That fares be set by City Council in the adoption of the annual fees and charges schedule; 3) That the ordinance become effective January 1, 1988; 4) That existing taxicab owners comply with the ordinance by July 1, 1988; 5) That the makeup of the taxicab advisory committee be reconsidered; 6) That the inspection fee for taxicabs be set at $10.00. This motion was seconded by Councilman Boland.

The City Manager and Corporation Counsel were requested to review the recommended amendments to the ordinance prior to the second reading of the Ordinance.

On a roll call vote of 7-0, Ordinance No. 1661 passed on first reading.

C. **Ordinance No. 1662 - Ordinance amending Chapter 8 of the Code of Ordinances of the City of Asheville to permit use of automatic fire sprinklers in lieu of additional stairwells in certain historical buildings.**

Mayor Bissette said this ordinance would permit installation of a complete sprinkler system in lieu of a second stairwell in historic buildings not over 8 stories in height, of Type I or Type II construction with an enclosed stairwell, other than educational and institutional occupancies. The purpose of this ordinance would be to take advantage of major advances in sprinkler system technology in order to bring buildings like City Hall into compliance with the State Building Code. At this time, the State Building Code does not provide for an alternative to a second stairwell in buildings like City Hall. However, Section 143-138 (e) of North Carolina statutes authorizes local adoption of building rules and regulations, provided that such rules and regulations are approved by the Building Code Council.

Chief John Rukavina, Fire Chief, briefly outlined the provisions of the ordinance. He said this ordinance would provide better life safety measures for historical buildings.

Upon inquiry of Ralph Bishop, Chief Rukavina said the City Hall Building is eminently fire proof, meaning that if the building burns, the structure would still stand. He said a fire proof building does not mean that the contents or occupants would be safe.

Vice-Mayor Frank moved for the adoption of Ordinance No. 1662. This motion was seconded by Councilman Price.

On a roll call vote of 7-0, Ordinance No. 1662 passed on first reading.

Councilman Michalove moved to suspend the rules and proceed to the second reading of Ordinance No. 1662. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1662 passed on second reading.

After discussion, Council approved staff forwarding the documents to the Building Code Council prior to the third reading of the ordinance in order for the issue to be placed on the Building Code Council's agenda for December, 1987 since there is a requirement that all agenda items for the Council be received at least 30 days in advance of the meeting.

D. **Ordinance No. 1663 - Budget Ordinance amendment to establish mapping project budget.**

Mayor Bissette said this budget ordinance will establish funding for the Mapping Project in the amount of $190,000.

Councilman Michalove moved for the adoption of Ordinance No. 1663. This motion was seconded by Vice-Mayor Frank.

On a roll call vote of 7-0, Ordinance No. 1663 passed on first and final reading.

Ordinance Book No. 11 Page No. 217

E. **Resolution No. 87-189 - Resolution authorizing the Mayor to execute an agreement on behalf of the City of Asheville with Asheville Area Chapter of the American Red Cross for specialized transportation service.**

Mayor Bissette said the City is a recipient of funds under Section 9 of the Urban Mass Transportation Act. Section 504 of the Act requires that the City provide public transportation services within the corporate limits to qualified handicapped and elderly individuals, including wheelchair users and semi-ambulatory persons. This resolution will authorize the Mayor to execute an agreement with Asheville Area Chapter of the American Red Cross to provide said service on an annual basis.

Councilman Tisdale, City Council liaison for the Asheville Transit Authority, said the Asheville Transit Authority recommended the acceptance of the low bid submitted by the Asheville Area Chapter of the American Red Cross since they are currently providing the specialized transportation service.

Upon motion of Councilman Boland, seconded by Councilman Tisdale, Resolution No. 87-189 was unanimously adopted.

Resolution Book No. 16 Page No. 452

F. Resolution No. 87-190 - Resolution authorizing the submission of an Emergency Shelter Grants Program Application on behalf of the Asheville-Buncombe Community Christian Ministry Shelter.

Mayor Bissette said this action authorizes the City of Asheville to apply for $75,000 to the N. C. Department of Natural Resources and Community Development for Emergency Shelter Grants Program. The project will be subcontracted to the Asheville-Buncombe Community Christian Ministry to provide shelter and support services for the homeless. The project involves $35,000 for building rehabilitation and $40,000 for operation/service activities.

A lengthy discussion was held relative to the City's future obligation in submitting the grant applications for the Emergency Shelter Grants for the Asheville-Buncombe Community Christian Ministry Shelter as well as Eliada Homes, Incorporated (Item G), and Hospitality House of Asheville, Inc. (Item H).

Marvin Vierra, Community Development Director, said the grant applications must be received by the end of October in order for the agencies to compete with other applicants. He said grant regulations would require that the City provide for the ongoing operation of the programs if the agencies fail to continue the programs.

Council members expressed concern that the City might be required to fund the programs. It was noted that the County of Buncombe is responsible for funding social service type programs.

Councilman Michalove said in order for the applications to be submitted by the deadline date Council could authorize the submission of the grant applications and if the grants were awarded perhaps the funds could be turned over to the County of Buncombe as the grantee.

Corporation Counsel Slawter said since he had not reviewed the Code of Federal Regulations which would apply to these grants he did not know if it would be permissible to turn the grants over to the County of Buncombe as the grantee.

Councilman Bratton said she felt coordination of these grant applications should have been handled through the Department of Social Services because it affects the entire community. She said she could not support the resolutions since it is not consistent with Council's policy on social service programs. She said Council has previously turned down similar agency requests. She said she was wholeheartedly in favor of social

service programs but it is a policy of Council that social service programs be funded by the County of Buncombe.

After discussion, Councilman Michalove moved for the adoption of Resolution No. 87-190. This motion was seconded by Councilman Boland and carried on a voice vote of 6-1, with Councilman Bratton voting "no".

Resolution Book No. 16 Page No. 453-454

G. **Resolution No. 87-191 - Resolution authorizing the submission of an Emergency Shelter Grants Program Application on behalf of the Emergency Family Shelter of Eliada Homes, Incorporated.**

Mayor Bissette said this action authorizes the City of Asheville to apply for $27,735 to the N. C. Department of Natural Resources and Community Development for Emergency Shelter Grants Program. The project will be subcontracted to the Emergency Family Shelter of Eliada Homes, Incorporated to provide shelter and support services for the homeless. The project involves $9,812 for building rehabilitation and $17,923 for operations/service activities.

(See discussion in Item "F")

After discussion, Councilman Michalove moved for the adoption of Resolution No. 87-191. This motion was seconded by Councilman Boland and carried on a voice vote of 6-1, with Councilman Bratton voting "no".

Resolution Book No. 16 Page No. 455-456

H. **Resolution No. 87-192 - Resolution authorizing the submission of an Emergency Shelter Grants Program Application on behalf of the Hospitality House of Asheville, Inc.**

Mayor Bissette said this action authorizes the City of Asheville to apply for $15,000 to the N. C. Department of Natural Resources and Community Development for Emergency Shelter Grants Program. The project will be subcontracted to the Hospitality House to provide shelter and support services for the homeless. All of the grant funds will be used for operations/service activities.

(See discussion in Item "F")

After discussion, Councilman Michalove moved for the adoption of Resolution No. 87-192. This motion was seconded by Councilman Boland and carried on a voice vote of 6-1, with Councilman Bratton voting "no".

Councilman Michalove moved that the Corporation Counsel look into the future legal obligations of the City of Asheville if the grant applications are awarded and that the City staff look into the possibility of the County of Buncombe being designated as the "grantee" of the grants. This motion was seconded by Vice-Mayor Frank and carried unanimously.

Resolution Book No. 16 Page No. 457-458

I. **Motion approving action by the Asheville-Buncombe Water Authority for the sale of water to the Town of Weaverville and authorizing the Mayor to execute a contract with the Town of Weaverville.**

Mayor Bissette said at the Asheville-Buncombe Water Authority meeting held on October 20, 1987, the Authority approved the sale of water to the Town of Weaverville. This motion will concur in that action and authorize the Mayor to sign the necessary documents.

Councilman Boland moved to approve the action by the Asheville-Buncombe Water Authority for the sale of water to the Town of Weaverville and authorize the Mayor to execute a contract with the Town of Weaverville. This motion was seconded by Vice-Mayor Frank and carried unanimously.

J. **Resolution No. 87-194 - Resolution authorizing the City Manager to execute contract between the City of Asheville and the YMI Cultural Center for minority economic development.**

Mayor Bissette said the YMI Cultural Center, Inc. has agreed to provide economic development services to the City of Asheville and the services to be provided are much needed within the City. This resolution will authorize the City Manager to execute an agreement with YMI Cultural Center, Inc. to assist in the funding of an economic development project.

Upon motion of Councilman Price, seconded by Councilman Michalove, Resolution No. 87-194 was unanimously adopted.

Resolution Book No. 16 Page No. 461

K. **Bids received for the sale of disposal parcels in the East Riverside Redevelopment Project and the East End/Valley Street Community Improvement Program.**

Mayor Bissette said the Housing Authority has tentatively accepted the following bids for disposal parcels in the East Riverside Redevelopment Project and the East End/Valley Street Community Improvement Program. The Housing Authority has recommended Council's acceptance of the bids for these disposal parcels.

57-A-ER	Commercial	90,200	110,250	L. B. Jackson Co.
57-B-ER	Commercial	250,000	260,000	Asheville Merchants
97-EE/VS	Residential	4,300	4,812	R & R Associates
98-EE/VS	Residential	4,500	5,050	Keith Knox
199-EE/VS	Assemblage	850	850	Christopher Summey

Larry Holt, Deputy Executive Director of the Housing Authority, explained the locations and details of the proposed bids.

Disposal Parcel 57-A is located on Asheland Avenue and the development will consist of an 8,000 sq. ft. office building for L. B. Jackson Company at an estimated construction cost of $490,000.00.

Disposal Parcel 57B is located at the intersection of Asheland Avenue, Southside Avenue and McDowell Street. The Asheville Merchants Association will construct and occupy a 12,000 sq. ft. office building with an estimated construction cost of $1,200,000.00.

Disposal Parcel 97 is a single family residential lot on George Washington Carver Street upon which R & R Associates will construct a 1,200 sq. ft. house at an estimated cost of $50,000.00 for sale. A qualified purchaser may receive a $1.00 lot subsidy in the amount of $4,299.00 to apply to the purchase.

Disposal Parcel 98 is a single family residential lot on George Washington Carver Street being sold to a qualified $1.00 lot subsidy applicant. The house to be constructed on the lot will be 1,008 sq. ft. and estimated to cost $45,240.00. The subsidy will cover $4,499.00 of the lot price with the purchaser paying the remainder.

Disposal Parcel 199 is a non-buildable lot being sold to the adjacent owner on Mountain Street.

Councilman Michalove moved to approve the recommendation of the Housing Authority on the sale of the above mentioned disposal parcels. This motion was seconded by Councilman Tisdale and carried unanimously.

V. CONSENT:

A. Resolution No. 87-193 - Resolution authorizing filing an application with the North Carolina Local Government Commission relating to a proposed financial agreement and designating the authorized representative of the City to file the application.

SUMMARY: This action authorizes filing an application with the North Carolina Local Government Commission for a proposed financial agreement for City Hall improvements.

Resolution Book No. 16 Page No. 459-460

B. Resolution No. 97-195 - Resolution authorizing the City Manager to sign an agreement providing for delivery of fire protection services to the Veteran's Administration Medical Center at Oteen through September 30, 1988.

SUMMARY: Negotiations with representatives of the Veterans Administration have been concluded. The Agreement recommended includes the following features: 1) Total payment to City remains unchanged (in large part because application of fire protection cost formula contained in City Council Resolution 81-198 results in no increase); 2) Specific enumeration of training and inspection services to be provided; 3) Recovery of other than direct expenses (i.e. for foam, other specialized equipment) in connection with a fire involving hazardous materials; and 4) Provision for billing for services provided in addition to (or not otherwise contemplated by) those set forth.

Resolution Book No. 16 Page No. 462

C. Resolution No. 87-196 - Resolution authorizing the distribution to the Trust Fund for the Asheville-Buncombe Library System of a bequest from Dr. Sprinzl Weizenblatt.

SUMMARY: Dr. Sprinzl Weizenblatt, a physician who practiced in Asheville for many years, died on April 5, 1987. Dr. Weizenblatt left a Last Will and Testament giving the sum of $50,000 to the City of Asheville for the express purpose of applying such funds at the direction of the Library Board of the City of Asheville. Wachovia Bank, executor of the will, is preparing to make a distribution of

the bequest to the City. Wachovia Bank feels that the distribution should be made to the City and the City in turn could deliver the proceeds to the Trust Fund for the library. This resolution will authorize said action.

Resolution Book No. 16 Page No. 463-464

D. **Bids received for computer equipment for Police and Fire Communications System.**

SUMMARY: Recommendation for award of Bids for computer equipment for the Police and Fire Departments "Computer Aided Dispatch" system as follows: Executive Productivity Systems, Norfolk, Virginia, for bid item No. 1, in the amount of $13,650 and Unisys Corporation, Charlotte, North Carolina, for bid items 2 through 6, in the amount of $35,083.89.

E. **Scheduling of public hearing relative to rezoning property located on Louisiana Avenue - J. D. Jackson and Associates for Mr. John Queen et al for November 10, 1987.**

SUMMARY: The Asheville Planning and Zoning Commission on October 14, 1987, considered the request of J. D. Jackson Associates for Mr. John Queen et al that Ward 6, Sheet 9, Lot 76 and portions of Lots 77 and 258 be rezoned from R-3 Residential District to CS Commercial Service District. The Commission voted to recommend to City Council that Ward 6, Sheet 9, Lot 76 and a portion of Lot 77 be rezoned to CS Commercial Service District and the rezoning request for a portion of Lot 258 be denied.

F. **Motion rescheduling the public hearing relative to closing an unnamed alley on West Avon Parkway from November 10, 1987 to November 24, 1987.**

SUMMARY: A petition was received from property owners along a portion of West Avon Parkway requesting that the unnamed alley be closed as a public alley. A public hearing is required prior to the closing of the unnamed alley.

Due to the public hearing notice not being placed in the newspaper in time for four successive weeks the public hearing needs to be rescheduled.

G. Motion rescheduling the public hearing relative to closing a portion of Fairview Avenue between Stevens Street and Fairview Road from November 10, 1987 to November 24, 1987.

SUMMARY: A petition was received from property owners along a portion of Fairview Avenue requesting that the portion between Stevens Street and Fairview Road be closed as a public street right of way. A public hearing is required prior to the closing of the unnamed alley.

Due to the public hearing notice not being placed in the newspaper in time for four successive weeks the public hearing needs to be rescheduled.

H. Motion rescheduling the public hearing relative to closing Syrlin Street from November 10, 1987 to November 24, 1987.

SUMMARY: A petition was received on July 17, 1987 from the property owner along a portion of Syrlin Street. The petition requested that a portion of Syrlin Street, be closed as a public street right of way.

Due to the public hearing notice not being placed in the newspaper in time for four successive weeks the public hearing needs to be rescheduled.

Upon motion of Vice-Mayor Frank, seconded by Councilman Tisdale the consent agenda was unanimously approved.

ADJOURNMENT

Upon motion of Councilman Price, seconded by Councilman Boland, the meeting adjourned at 6:40 P.M.

MAYOR

CITY CLERK

Tuesday - November 10, 1987 - 4:00 P.M.

Regular Meeting

Present: Vice-Mayor Mary Lloyd Frank, Presiding; Councilmen Kenneth M. Michalove, Norma T. Price, Wilhelmina Bratton, George Tisdale, and Walter Boland; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Deputy City Clerk Carol Hensley.

Absent: Mayor W. Louis Bissette and Associate City Manager/City Clerk William F. Wolcott, Jr.

INVOCATION

The invocation was given by Vice-Mayor Frank.

APPROVAL OF MINUTES

Vice-Mayor Frank announced the approval of the minutes of October 27, 1987 meeting as submitted.

I. PROCLAMATIONS:

A. Recognize Mrs. Charles Young - "Senior Queen of North Carolina"

Vice-Mayor Frank recognized Mrs. Charles (Joan) Young of Ballantree who was recently named "Senior Queen of North Carolina".

Mrs. Young said the pageant is sponsored by the North Carolina Association of Senior Citizens through the Asheville Parks and Recreation Department. She said was named the Queen of Western North Carolina, which includes seventeen (17) counties before obtaining the state title. She said she would be seeking the national title in April in Atlantic City. She said she was asked to seek the title because of her volunteer work in the Rape Crisis Center. She said the Governor had presented her with an award for Outstanding Volunteer because of her work with the local Rape Crisis Center.

Members of Council wished Mrs. Young the best of luck in Atlantic City.

II. PUBLIC HEARINGS:

A. Public hearing relative to rezoning property located on Louisiana Avenue for J. D. Jackson and Associates for Mr. John Queen.

Ordinance No. 1664 - An Ordinance amending Ordinance No. 322, known as "An Ordinance providing for the Zoning of the City of Asheville," as amended.

Vice-Mayor Frank said the Asheville Planning and Zoning Commission on October 14, 1987, considered the request of J. D. Jackson Associates for Mr. John Queen et al that Ward 6, Sheet 9, Lot 76 and portions of Lots 77 and 258 be rezoned from R-3 Residential District to CS Commercial Service District. The Commission voted to recommend to City Council that Ward 6, Sheet 9, Lot 76 and a portion of Lot 77 be rezoned to CS Commercial Service District and the rezoning request for a portion of Lot 258 be denied.

Vice-Mayor Frank opened the public hearing at 4:12 P.M.

The Deputy City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Al Kopf, with the Planning Department, said the property is located on Louisiana Avenue behind the Winn-Dixie Store which faces Haywood Road. He said the Commission had recommended denial of the request to rezone a portion of Lot 258 to CS Commercial Service District so as not to allow an encroachment into the residential area.

Upon inquiry of Councilman Tisdale, Mr. Kopf said the owners of Lot 82 and Lot 83 had voiced objections to the rezoning due to increased storm water run off and security in the area.

After discussion, Vice-Mayor Frank closed the public hearing at 4:17 P.M.

Councilman Price moved for the adoption of Ordinance No. 1664 accepting the Planning and Zoning Commission's recommendation to rezone Lot 76 and a portion of Lot 77 from R-3 Residential District to CS Commercial Service District and that the rezoning request for a portion of Lot 258 be denied. This motion was seconded by Councilman Boland.

On a roll call vote of 6-0, Ordinance No. 1664 passed on first reading.

Councilman Tisdale requested that the city staff contact the property owners of Lots 82 and 83 to advise them as to Council's action on the rezoning.

III. OLD BUSINESS:

A. Ordinance No. 1661 - Second reading of Ordinance No. 1661, Ordinance amending Chapter 27 (Taxicabs) of the Code of Ordinances of the City of Asheville.

Vice-Mayor Frank said after numerous meetings with the taxicab owners and operators Chapter 27, Taxicabs, is being rewritten. This ordinance was read on first reading on October 27, 1987.

Corporation Counsel Slawter outlined the amendments made to the ordinance since the first reading.

A discussion was held relative to the provisions for exclusive ride services and the rates to be charged for shared rides. Corporation Counsel Slawter and Attorney Wade Hall, representing all taxicab owners, said it was their understanding that this provision was to be deleted. It was the consensus of Council to leave the provision out of the ordinance but to address the rates to be charged for shared rides in the adoption of the rate schedule.

A discussion was held relative to provisions in the ordinance stating that certificates are not transferable. For an example, someone purchasing a taxicab operation would have to apply to the Taxicab Inspector for their own certificates and meet all the requirements specified in the ordinance for a taxicab owner.

Attorney Wade Hall objected to including this provision in the ordinance stating that in his opinion it could be unconstitutional to prohibit someone from selling their business to whoever they wanted to sell it to.

Mr. Hall said he would also hope that Council would delete the provision that would prohibit a taxicab company from also operating a convenience store that sold alcoholic beverages. He said the selling of alcoholic beverages is controlled by the State and it was his hope that the City would stay away from that regulation. He said this provision could also be unconstitutional.

After discussion, it was requested that the Corporation Counsel and Attorney Wade Hall meet prior to the third reading of the ordinance to work out the language relative to certificates not being transferable and the prohibiting of the selling of alcoholic beverages at the same location of a taxicab operation.

On a roll call vote of 6-0, Ordinance No. 1661 passed on second reading.

B. Ordinance No. 1662 - Third reading of Ordinance No. 1662, Ordinance amending Chapter 8 of the Code of Ordinances of the City of Asheville to permit use of automatic fire sprinklers in lieu of additional stairwells in certain historical buildings.

Vice-Mayor Frank said this ordinance would permit installation of a complete sprinkler system in lieu of a second stairwell in historic buildings not over 8 stories in height, of Type I or Type II construction with an enclosed stairwell, other than educational and institutional occupancies. The purpose of this ordinance would be to take advantage of major advances in sprinkler system technology in order to bring buildings like City Hall into compliance with the State Building Code. At this time, the State Building Code does not provide for an alternative to a second stairwell in buildings like City Hall. However, Section 143-138 (e) of North Carolina statutes authorizes local adoption of building rules and regulations, provided that such rules and regulations are approved by the Building Code Council.

Vice-Mayor Frank said this ordinance was previously read on first and second reading and would not be reread in its entirety.

On a roll call vote of 6-0, Ordinance No. 1662 passed on third and final reading.

Ordinance Book No. 11 Page No. 214 - 216

IV. NEW BUSINESS:

A. Ordinance No. 1665 - Budget Ordinance amendment to appropriate funding for street and sidewalk improvements through June 30, 1988.

Vice-Mayor Frank said this budget amendment in the amount of $10,685,839 will appropriate funding for street and sidewalk improvements through June 30, 1988 - Contract No. 2.

Upon inquiry of Charles Patton of Ballantree, the City Manager said paving would begin in the Spring. He said he would have staff review the streets in Ballantree to determine the status of resurfacing in that area.

Councilman Boland moved for the adoption of Ordinance No. 1665. This motion was seconded by Councilman Michalove.

On a roll call vote of 6-0, Ordinance No. 1665 passed on first and final reading.

Ordinance Book No. 11 Page No. 219

Councilman Price left the meeting at 5:20 p.m.

B. **Resolution No. 87-197 - Resolution authorizing the City Manager to execute on behalf of the City of Asheville a contract and any change orders within the budgeted amount with APAC Carolina, Inc. for the project known as Street and Sidewalk Improvement Contract No. 2.**

Vice-Mayor Frank said the second proposed contract for the streets and sidewalk programs is for replacement and repair of concrete sidewalks, driveway entrances, curbs and gutters along both side of Haywood Road from Patton Avenue to Beverly Road/Ridgelawn intersection. This contract will also do the following seven paving projects: 1) City/County Plaza; 2) Hillside (Merrimon to Mt. Clare); 3) Ann Street (Haywood Street to Patton) 4) Carter (Haywood Street to Patton); 5) Austin; 6) Burton (Haywood Road to Buffalo); 7) Ridgelawn (Haywood Road to Garden Circle).

Upon motion of Councilman Boland, seconded by Councilman Tisdale, Resolution No. 87-197 was unanimously adopted.

Resolution Book No. 17 Page No. 1

C. **Resolution No. 87-198 - Resolution authorizing the Mayor to execute on behalf of the City of Asheville an amendment to the agreement by and between the City of Asheville and McGill Associates, P. A., for additional consulting services for Phase I of the Street and Sidewalk Improvements Projects.**

Vice-Mayor Frank said this amendment will provide the City with a long-term management system that will assure that our limited maintenance funds will be expended in full consideration of cost/benefit relationships. This will also include software that allows for objective evaluation of pavement conditions and the repairs required to bring each street up to standard.

Upon motion of Councilman Boland, seconded by Councilman Michalove, Resolution No. 87-198 was unanimously adopted.

Resolution Book No. 17 Page No. 2

D. **Resolution No. 87-199 - Resolution to provide for a referendum by the City of Asheville's eligible police and fire employees under provisions of Article 2 of Chapter 135 of the General Statutes of North Carolina and under the provisions of the Governor's Executive Order of July 21, 1961.**

Vice-Mayor Frank said there are employees within the Asheville Police Department and Asheville Fire Department not currently covered under the Federal Social Security Act. The City Council has received numerous requests from various members of those two departments to hold a referendum to determine whether or not the majority of members wish to participate in social security. This resolution will provide for such a referendum.

Councilman Tisdale said even though he would be going off of Council shortly it was his hope that Council treat all city employees alike in wages and benefits. He asked that Council take the police and fire employees under consideration in treating all city employees fairly.

Upon motion of Councilman Tisdale, seconded by Councilman Michalove, Resolution No. 87-199 was unanimously adopted.

Resolution Book No. 17 Page No. 3

V. CONSENT:

A. Resolution No. 87-200 - Resolution authorizing the City Manager to enter into a lease agreement with Unicom Corporation for space from the City of Asheville at the City's Peach Knob site for the purpose of operating a paging service.

SUMMARY: This resolution will authorize leasing of space at Peach Knob to Unicom Corporation to operate a paging service.

Resolution Book No. 17 Page No. 4

B. Resolution No. 87-201 - Resolution authorizing the Mayor to execute on behalf of the City of Asheville a contract with Southern Railway Company for license to construct and maintain an 8-inch sanitary sewer pipeline across and under the Southern Railway tracks on the west side of the French Broad River.

SUMMARY: The Champion Sewer Project entails installation of an 8-inch sanitary sewer pipeline. It is necessary to cross underneath the Southern Railway tracks on the west side of the river for construction of the 8-inch sanitary sewer pipeline for the Champion Sewer Project. Southern Railway Company requires payment of a $50.00 consideration fee for this license. This resolution will authorize the Mayor to execute said contract.

C. Bids for five (5) assorted passenger vehicles for City of Asheville.

SUMMARY: Recommendation for award for five (5) assorted passenger vehicles as follows: Pelle Chevrolet, Asheville, North Carolina, for bid Item A, (2 each 3/4 ton, four wheel drive, carryall type vehicles for the Fire Department) and Item B, (1 each eight (8) passenger mini-van for the Fire Department), in the amount of $47,958.10 and Matthews Ford, Asheville, North Carolina, for bid Item C, (1 each full size station wagon for the Fire Department); and Item D, (1 each fifteen (15) passenger van for the Parks, Recreation and Public Facilities Department), in the amount of $29,951.76.

Upon motion of Councilman Tisdale, seconded by Councilman Michalove, the consent agenda was unanimously approved.

RESOLUTION NO. 87-202 - RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASHEVILLE TO EXECUTE AN EASEMENT AGREEMENT IN FAVOR OF THE CAROLINA POWER AND LIGHT COMPANY FOR THE VENABLE INDUSTRIAL SITE SEWER CONNECTOR

The City Manager presented a resolution which would authorize the Mayor to execute an easement in favor of the Carolina Power and Light Company in order to provide service to the sewer lift station at the Venable Industrial Site Sewer Connector.

Upon motion of Councilman Michalove, seconded by Councilman Tisdale, Resolution No. 87-202 was unanimously adopted.

REPORT BY COUNCILMAN TISDALE - ASHEVILLE CABLEVISION COMMISSION

Councilman Tisdale reported that the Asheville Cablevision Commission met on Monday, November 9, 1987. He said the meetings have been very productive. He said since he would be going off the Council shortly the Council should be considering a replacement on that Commission.

Councilman Tisdale since he is Council's liaison to the Asheville Transit Authority he would also suggest that the newly elected Councilmember Russ Martin attend the Asheville Transit Authority meeting on Thursday, November 12, 1987 at 3:00 P.M.

VICE-MAYOR FRANK - COMMENDING STAFF FOR NEW "TALENT SCOUT BOOK"

Vice-Mayor Frank commended the staff on their preparation of the new "Talent Scout Book" outlining all Boards and Commissions appointed by members of Council.

COUNCILMAN BOLAND - REQUEST FOR STATUS OF 2010 PLAN

Councilman Boland requested that Council be given a status report on the implementation of the 2010 plan.

CLAIMS - DAVID MULL (POLICE)- RICHARD WALKER (SANITATION) - BRENDA METCALF (WATER) - MICHAEL ORBON (INSPECTIONS) - BILL MULL (PARKS) - SUSAN WILSON (STREETS)

The City Manager presented claims received from David Mull, Richard Walker, Brenda Metcalf, Michael Orbon, Bill Mull and Susan Wilson.

RALPH BISHOP - LOTTERY SALES

Ralph Bishop again spoke to members of Council relative to the lottery sales in the City of Asheville.

ADJOURNMENT

Upon motion, Vice-Mayor Frank adjourned the meeting at 5:45 P.M.

MAYOR

CITY CLERK

Tuesday - November 24, 1987 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Kenneth M. Michalove, Norma T. Price, Wilhelmina Bratton, George Tisdale, and Walter Boland; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Bratton.

APPROVAL OF THE MINUTES

Mayor Bissette announced the approval of the minutes of the November 10, 1987 meeting as submitted.

VICE-MAYOR FRANK ELECTED TO BOARD OF DIRECTORS - NORTH CAROLINA LEAGUE OF MUNICIPALITIES

Mayor Bissette congratulated Vice-Mayor Mary Lloyd Frank on being elected to the Board of Directors for the North Carolina League of Municipalities.

RECOGNITION TO WATER MAINTENANCE DIVISION - NORTH CAROLINA STATE WATER TAPPING TEAM

City Manager Doug Bean said the City of the Asheville is proud of our Department of Water and Sewer Department, Water Maintenance Division, for winning the State title in water line tapping during the annual convention of the American Water Works in Pinehurst. He said the team will now represent the City of Asheville in the national contest to be held at the AWWA Convention to be held in Orlando, Florida in June of 1988. The Asheville Tapping Team beat Greensboro by just over 1/10 of a second to win first place in the pipe tapping event. Total time to complete a water service tap on a pressurized line was 2:33 minutes. The Asheville Tapping Team, BILLY GEVEDON, PETE RAUSCHENPLAT, GREG ALLEN, DENNIS MORGAN, AND THEIR COACH RICK HARPER, received plaques for their outstanding accomplishments.

City Manager Doug Bean said the Water Production Division also received an award in the Best Drinking Water Contest. He said a panel of nine judges evaluated entries in North Carolina and with less than 1 point difference in the

judging between first and second plan, Brevard, N. C. was chosen first place, Asheville, N. C. was chosen second place, and Durham, N. C. was chosen third. He recognized BOBBY HOLMES from Water Production Control for receiving this award.

A video was shown of the Water Tapping Team's championship performance.

I. PROCLAMATIONS:

A. Proclamation - Mountain Area Hospice - Festival of Trees - November 26, 1987

Mayor Bissette read the proclamation and presented a copy to Judy Noth, Director of Mountain Area Hospice and Bobbie Cannon.

Judy Noth presented members of Council with t-shirts and complimentary tickets to the Festival of Trees event.

PROPOSED PARK - MARTIN LUTHER KING VS. BEAVER LAKE

Mayor Bissette said members of Council has discussed the proposed park to be located on Martin Luther King vs. Beaver Lake properties. After considerable discussion relative to the pros and cons of the two sites it was the unanimous decision of the members of Council to proceed with the proposed park on Martin Luther King. The City has agreed to assist the residents of Beaver Lake in applying for grants for the possible acquisition of the Beverly property for a passive park.

II. PUBLIC HEARINGS:

A. Public hearing relative to closing an unnamed alley on West Avon Parkway.

Resolution No. 87-203 - Resolution to close an unnamed alley on West Avon Parkway in the City of Asheville, North Carolina.

Mayor Bissette said a petition was received from property owners along a portion of West Avon Parkway requesting that the unnamed alley be closed as a public alley. A public hearing is required prior to the closing of the unnamed alley.

Mayor Bissette opened the public hearing at 4:31 P.M.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Larry Ward, of the Public Works Department, said the City has no use for the unnamed alley which has never been legally opened. He said the closing of the alley would not deprive adjacent property owners of ingress and egress to his property.

Councilman Tisdale requested that the Lakeview Park Commission be notified of this alley closing.

Mayor Bissette closed the public hearing at 4:35 p. m.

Upon motion of Vice-Mayor Frank, seconded by Councilman Michalove, Resolution No. 87-203 was unanimously adopted.

Resolution Book No. 17 Page No. 7-8

B. **Public hearing relative to closing a portion of Fairview Avenue between Stevens Street and Fairview Road.**

Resolution No. 87-204 - Resolution to close Fairview Avenue between Stevens Street and Fairview Road in the City of Asheville, North Carolina.

Mayor Bissette said a petition was received from property owners along a portion of Fairview Avenue requesting that the portion between Stevens Street and Fairview Road be closed as a public street right of way. A public hearing is required prior to the closing of the unnamed alley.

Mayor Bissette opened the public hearing at 4:36 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Larry Ward, of the Public Works Department, said the City has no use for the portion of Fairview Avenue property to be closed which has never been opened. He said the closing of the portion would not deprive adjacent property owners of ingress and egress to his property.

Councilman Michalove expressed concern that the property owners adjacent to the portion of Fairview Avenue proposed to be closed would receive the property without compensation to the City. He said it is his understanding that the land to be given to the property owners is valuable and the City would be gaining nothing from this closing.

Councilman Tisdale noted that the closing of the portion of Fairview Avenue would be recorded in the Buncombe County Register of Deeds and taxes would have to be paid by the property owners for this property.

Mayor Bissette closed the public hearing at 4:44 p.m.

Upon motion of Councilman Tisdale, seconded by Councilman Price, Resolution No. 87-204 passed on a voice vote of 6-1, with Councilman Michalove voting "no".

Resolution Book No. 17 Page No. 9-10

C. Public hearing relative to closing Syrlin Street.

Mayor Bissette said a petition was received on July 17, 1987 from the property owner along a portion of Syrlin Street. The petition requested that a portion of Syrlin Street, be closed as a public street right of way.

Mayor Bissette opened the public hearing at 4:45 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Mayor Bissette said it was noted during Pre-Council Work Session that another petition has been filed requesting the closing of another portion of Syrlin Street and members of Council are inclined to continue this public hearing and considered both the petitions at one meeting. He said the public hearings would be held on January 5, 1988.

Harold Bennett, Attorney for the petitioner, agreed to continuing the public hearing and hearing both requests at one time.

Councilman Price moved to continue the public hearing relative to closing a portion of Syrlin Street until January 5, 1988 without further advertisement. This motion was seconded by Councilman Michalove and carried unanimously.

Councilman Tisdale requested that all adjacent property owners, including Pearcy Carter, be notified of the public hearing date.

III. OLD BUSINESS:

A. Ordinance No. 1664 - Second reading of Ordinance No. 1664, an ordinance amending Ordinance No. 322, known as

"An Ordinance Providing for the Zoning of the City of Asheville," as amended, petition of J. D. Jackson and Associates, property located on Louisiana Avenue.

Mayor Bissette said the Asheville Planning and Zoning Commission on October 14, 1987, considered the request of J. D. Jackson Associates for Mr. John Queen et al that Ward 6, Sheet 9, Lot 76 and portions of Lots 77 and 258 be rezoned from R-3 Residential District to CS Commercial Service District. The Commission voted to recommend to City Council that Ward 6, Sheet 9, Lot 76 and a portion of Lot 77 be rezoned to CS Commercial Service District and the rezoning request for a portion of Lot 258 be denied. This ordinance was read on first reading on November 10, 1987.

On a roll call vote of 7-0, Ordinance No. 1664 passed on second reading.

B. Ordinance No. 1661 - Third reading of Ordinance No. 1661, Ordinance amending Chapter 27 (Taxicabs) of the Code of Ordinances of the City of Asheville.

Mayor Bissette said after numerous meetings with the taxicab owners and operators Chapter 27, Taxicabs, has been rewritten. This ordinance has been read on first and second readings with several amendments.

Corporation Counsel Slawter reviewed several proposed amendments to the ordinance as discussed during the first and second readings of the ordinance and as agreed to by the taxicab owners.

Councilman Price moved to amend Ordinance No. 1661 as outlined by the Corporation Counsel. This motion was seconded by Councilman Boland and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1661 passed on third and final reading.

Ordinance Book No. 11 Page No. 189-213

IV. NEW BUSINESS:

A. Ordinance No. 1666 - Budget ordinance amendment establishing funding for sewer service to Champion Finishing Company, Inc.

Mayor Bissette said the purpose of this budget ordinance amendment is to set up an appropriation for the Champion Siphon/Sewer Project. This project was recently approved by the Appalachian Regional Commission (ARC) for a 50% grant. The grant application was previously authorized on September 23, 1986.

Councilman Tisdale moved for the adoption of Ordinance No. 1666. This motion was seconded by Vice-Mayor Frank.

On a roll call vote of 7-0, Ordinance No. 1666 passed on first and final reading.

Ordinance Book No. 11 Page No. 220

B. Ordinance No. 1667 - Budget ordinance amendment appropriating Rental Rehabilitation Program funds into the budget.

Mayor Bissette said the City has received approval from HUD for $142,400 in Rental Rehabilitation Program funds for 1987-88. This ordinance will appropriate the funds into the budget.

Vice-Mayor Frank moved for the adoption of Ordinance No. 1667. This motion was seconded by Councilman Price.

On a roll call vote of 7-0, Ordinance No. 1667 passed on first and final reading.

Ordinance Book No. 11 Page No. 221

V. CONSENT:

A. Resolution No. 87-205 - Resolution authorizing the Mayor of the City of Asheville to execute easement in favor of the Carolina Power and Light Company for property on Airport Road.

SUMMARY: Carolina Power and Light Company has requested that the City of Asheville execute a right-of-way easement on property belonging to the City of Asheville located on Airport Road for the purpose of updating an existing electric power line. The Corporation Counsel to add language to the easement to provide that if the City of Asheville has a need to require Carolina Power and Light Company to relocate their lines that it would be done at Carolina Power and Light Company's expense.

Resolution Book No. 17 Page No. 11

B. Resolution No. 87-206 - Resolution authorizing the City Manager to execute on behalf of the City of Asheville an agreement and any amendments within the budgeted amount with Black and Veatch, Inc. for engineering services for the design of the South Swannanoa Sewer Interceptor.

SUMMARY: Per City Council's directive in mid-summer to accommodate the proposed Cherokee Place Shopping Center (Roses, Revco, Bilos) and to alleviate the overloaded condition of the sewer interceptor serving this area (Old US 74 and new US 74), solicitations were made for an engineering consultant to design the South Swannanoa 21-inch sanitary sewer interceptor consisting of approximately 8,370 l.f. of 21-inch sanitary sewer. Fourteen firms responded. A committee evaluated and rated the proposals and the contract was negotiated with the highest rated firm, Black and Veatch of Asheboro, North Carolina at a cost of $77,500.

Resolution Book No. 17 Page No. 12

C. Resolution No. 87-207- Resolution authorizing the Mayor to execute a supplemental municipal agreement with the North Carolina Department of Transportation for closed loop Signal system in Asheville.

SUMMARY: The City and the North Carolina Department of Transportation, on the 12th day of March, 1985, entered into a Municipal Agreement for the procurement and installation of a Closed Loop Signal System. Procurement costs and time frames for implementation of this system have changed substantially. Due to these changes the City and the North Carolina Department of Transportation now wish to supplement the agreement.

Resolution Book No. 17 Page No. 13

D. Approval of bids for fire hydrants and PVC pipe.

SUMMARY: Recommendation for award of 135 each 6 inch fire hydrants and 6000 feet of 12 inch C-900 PVC Pipe as follows: Miller Supply Company, Laurinburg, North Carolina for Bid Items No. 1, 2, and 3 (135 fire hydrants - 6 inch with various bury lengths) in the amount of $50,050.00 and Consolidated Pipe and Supply, Charlotte, North Carolina for Bid Item 4 (6000 feet - 12 inch, C-900 PVC pipe) in the amount of $83,880.00.

(Bid Summary Sheet on file in the Office of the City Clerk)

E. **Scheduling public hearing relative to Asheville Mall Expansion for December 8, 1987.**

SUMMARY: The Asheville Planning and Zoning Commission at a called meeting on June 19, 1985, reviewed and approved the site plan of the Expansion of the Asheville Mall subject to nine contingencies. The Commission also recommended that the City Council, at a later date, request that a study be made of the feasibility of making Bracketown Road one-way out only to White Pine Drive. A grading plan was submitted and approved on January 15, 1987, and this work has been completed.

F. **Scheduling public hearing relative to Sevier Street Apartments, Phase A for December 8, 1987.**

SUMMARY: The Asheville Planning and Zoning Commission at a meeting on November 11, 1987, reviewed and approved the site plan of Sevier Street Apartments, Phase A, subject to reducing the number of units to nine, specifically deleting unit number one, and compliance with Erosion Control Ordinance.

G. **Scheduling public hearing relative to Adams Hill Mobile Home Park for December 15, 1987.**

SUMMARY: The Asheville Planning and Zoning Commission at a meeting on November 11, 1987, reviewed and approved the site plan subject to the following: That the plan be approved provided an 80' buffer be provided between this, any lot for mobile home uses, and the adjacent property owners along the property lines bearing N 85 deg. 27' 04" 464.17', S 80 deg. 33' 27" W 275.68', appears to be adjacent to the Roger Keener, Charlene Webb and Edwin Hensley property, no land disturbing activities to be permitted on this 80' buffer except for purposes of control of storm water and that planting be in accordance with the buffering requirements for the entire 80', subject to review by the appropriate sedimentation board review authority. That a temporary silt basin and permanent stilling basins be installed in the two buffer areas mentioned before and also for Area C. Pumping station closest to space number 29 will have to be moved up the hill 60'.

Upon motion of Vice-Mayor Frank, seconded by Councilman Price, the consent agenda was unanimously approved.

STATUS OF IMPLEMENTATION OF 2010 PLAN

Upon inquiry of Councilman Boland, the City Manager said a report relative to the status of implementation of the 2010 plan would be forthcoming in the near future.

COMMENTS BY IRMGARD GORDOS

Irmgard Gordos, of 61 Bingham Road, Apartment 7C, spoke to Council relative to problems she was experiencing in the Bingham Heights Apartments. She told Council that she had contacted the Asheville Housing Authority and Pisgah Legal Services about her problems but she was still going to have to vacate the premises within three (3) weeks.

After discussion, Mayor Bissette requested that Ms. Gordos give the City Manager a list of her problems and he would see what could be done about her concerns.

CLAIMS - ROBERT VAN DINE (STREETS) - MARY ANN BRACKETT (WATER) - ANN BALL (WATER) - BOBBY FOWLER (SANITATION) - J. C. McDARIS (STREETS) - KATHY KEENER (WATER)

The City Manager presented claims received from Robert Van Dine, Mary Ann Brackett, Ann Ball, Bobby Fowler, J. C. McDaris, and Kathy Kenner.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

LAWSUITS - PATRICIA L. ANDERSON VS. CITY OF ASHEVILLE

The City Manager said the City of Asheville was named a party in a Small Claims action involving Patricia L. Anderson vs. City of Asheville relative to property damage and bodily injury resulting from automobile accident.

Mayor Bissette referred the claim to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP - COMMENTS RELATIVE TO LOTTERY SALES

Ralph Bishop again spoke to members of Council relative to the lottery sales in the City of Asheville.

ADJOURNMENT

Upon motion, Mayor Bissette adjourned the meeting at 5:20 P.M.

MAYOR

CITY CLERK

Tuesday - December 1, 1987 - 4:00 P.M.

ORGANIZATIONAL SESSION:

Mayor W. Louis Bissette opened the meeting.

Mayor Bissette introduced Rev. Arthur F. Fogartie, Pastor of First Presbyterian Church who gave the invocation.

Senior Resident Superior Court Judge Robert D. Lewis administered the Oath of Office to the following:

Mayor W. Louis Bissette, Jr.
Councilman Wilhelmina B. Bratton
Councilman Walter R. Boland
Councilman Mary Lloyd Frank
Councilman Russell M. Martin
Councilman Kenneth M. Michalove
Councilman Norma T. Price

RESOLUTION NO. 87-208 - RESOLUTION OF APPRECIATION TO COUNCILMAN GEORGE M. TISDALE

Mayor Bissette read a resolution of appreciation to Councilman George M. Tisdale.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 87-208 was unanimously adopted.

Complete text of Resolution No. 87-208 will be found in Resolution Book No. 17 at page 14.

Councilman Tisdale thanked members of Council for the resolution and commented on the accomplishments of the City of Asheville during his term of office in the past two years.

*** Recess of Council

REGULAR SESSION

Present: Mayor W. Louis Bissette, Presiding; Councilmen Mary Lloyd Frank, Kenneth M. Michalove, Norma T. Price, Wilhelmina Bratton, Russell M. Martin, and Walter Boland; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

ELECTION OF VICE-MAYOR

Councilman Price thanked incumbent Vice-Mayor Mary Lloyd Frank for her service during the past two years, and the other Councilmembers echoed their appreciation.

Councilman Price nominated Councilman Kenneth M. Michalove as Vice-Mayor of the City of Asheville. The nomination was seconded by Councilman Frank.

Councilman Bratton moved that the nominations be closed. This motion was seconded by Councilman Martin and carried unanimously.

On a voice vote, Councilman Michalove was unanimously elected as Vice-Mayor.

Councilman Michalove said the unanimous vote is symbolic of starting off on the right foot, no matter who the candidate is, and he looked forward to working with all the members of Council.

Upon inquiry of Ralph Bishop, Mayor Bissette said in the absence of the Mayor and Vice-Mayor another member of Council would preside over the meetings.

APPROVAL OF MINUTES OF NOVEMBER 24, 1987 MEETING

Mayor Bissette announced the approval of the minutes of the November 24, 1987 meeting with several minor amendments.

I. PROCLAMATIONS:

A. Proclamation - "World Healing Day" - December 31, 1987

Mayor Bissette read the proclamation and presented a copy to Gloria Free, with the Planetary Commission. Ms. Free said the local observation of World Healing Day would be from December 30, 1987 at 8:00 p. m. until December 31, 1987 at 8:00 a. m. in the Thomas Wolfe Auditorium at the Asheville Civic Center.

II. PUBLIC HEARINGS:

III. OLD BUSINESS:

A. Ordinance No. 1664 - Third reading of an ordinance amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville," as amended, petition of J. D. Jackson and Associates, property located on Louisiana Avenue.

Mayor Bissette said the Asheville Planning and Zoning Commission on October 14, 1987, considered the request of J. D. Jackson Associates for Mr. John Queen et al that Ward 6, Sheet 9, Lot 76 and portions of Lots 77 and 258 be rezoned from R-3 Residential District to CS Commercial Service District. The Commission voted to recommend to City Council that Ward 6, Sheet 9, Lot 76 and a portion of Lot 77 be rezoned to CS Commercial Service District and the rezoning request for a portion of Lot 258 be denied. This ordinance was read on first reading on November 10, 1987 and on second reading November 24, 1987.

On a roll call vote of 7-0, Ordinance No. 1664 passed on third and final reading.

Ordinance Book No. 11 Page No. 218

IV. NEW BUSINESS:

A. **Ordinance No. 1668 - Ordinance amending Section 28-52 (b) of Chapter 28 of the Code of Ordinance of the City of Asheville prohibiting truck traffic on Hazel Mill Road, between Patton Avenue and North Louisiana Avenue.**

Mayor Bissette said this action will add the portion of Hazel Mill Road, between Patton Avenue and North Louisiana Avenue, to the list of streets on which certain truck traffic is prohibited.

Mayor Bissette said this ordinance was previously presented to members of Council and will not be read in its entirety.

Councilman Frank moved for the adoption of Ordinance No. 1668. This motion was seconded by Councilman Price.

On a roll call vote of 7-0, Ordinance No. 1668 passed on first reading.

B. **Resolution No. 87-209 - Resolution providing for the issuance of $3,000,000 Street and Sidewalk Bonds, Series 1987.**

Mayor Bissette said this resolution sets forth the details of the bonds as required by N. C. General Statutes 159-65.

City Manager Doug Bean said this action will enable the City of Asheville to sell the bonds on December 15, 1987 and to take advantage of staying within the small issue limit.

Councilman Boland introduced the resolution, a copy of which had been provided to each Councilmember, which was read by title: Resolution providing for the issuance of the issuance of $3,000,000 Street and Sidewalk Bonds, Series 1987. Councilman Boland moved for the adoption of the resolution. This motion was seconded by Councilman Martin and carried unanimously.

Resolution Book No. 17 Page No. 15-41

V. CONSENT:

A. Resolution No. 87- 210 - Resolution authorizing the Purchasing Director to dispose of personal property by private sale.

SUMMARY: The City's Print Shop will be purchasing a new graphics camera for printing operations and wishes to sell old equipment (1-Robertson Meteorite Mark III Camera; approximately 20 years old).

Resolution Book No. 17 Page No. 42

B. Resolution No. 87- 211 - Resolution of intent to close a portion of Syrlin Street and calling a public hearing for January 5, 1988.

SUMMARY: A petition was received on November 16, 1987 from the property owners along a portion of Syrlin Street. The petition requested that a portion of Syrlin Street between Tax Lots 178 and 13-1/4 of Ward 9, Sheet 7 of the Buncombe County Tax Maps, extending northward approximately 160 feet from the southern margin of said lots be closed as a public street right of way.

Resolution Book No. 17 Page No. 43-44

Upon motion of Vice-Mayor Michalove, seconded by Councilman Frank, the consent agenda was unanimously adopted.

CLAIMS - WANDA BURRELL (SEWER)

The City Manager presented a claim received from Wanda Burrell.

COUNCILMAN GEORGE TISDALE - REQUEST FOR STATE AUDIT - PACK SQUARE PROJECT

Councilman Tisdale made a formal request of Council to concur in his request to have the State Auditor, Ed Renfrow, to conduct an audit of both aspects of the Pack Square Project. He said he felt the "air needs to be cleared in the community" on both these projects.

RALPH BISHOP - LOTTERY SALES

Ralph Bishop spoke to members of Council relative to the lottery sales in the City of Asheville.

ADJOURNMENT

Upon motion, Mayor Bissette adjourned the meeting at 5:10 p.m.

MAYOR

CITY CLERK

Tuesday - December 8, 1987 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell M. Martin, and Walter Boland; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Vice-Mayor Michalove.

APPROVAL OF MINUTES - DECEMBER 1, 1987

Mayor Bissette announced the approval of the minutes of the December 1, 1987 as submitted.

I. PROCLAMATIONS:

A. STAN GUDGER - CRIME STOPPERS - ANNOUNCEMENT OF FUND RAISING DRIVE

Mayor Bissette recognized Stan Gudger, Coordinator for Crime Stoppers, who announced a fund raising drive by Crime Stoppers for their Reward Fund. He said Domino's Pizza will be donating $5.00 for every pizza sold tonight to Crime Stoppers. He encouraged members of Council and everyone to buy a Domino's Pizza tonight to help increase the Reward Fund for Crime Stoppers.

B. PROCLAMATION - HILLHAVEN REHABILITATION AND CONVALESCENT CENTER - NORTH POLE SUBSTATION - HO-HO HOTLINE

Mayor Bissette proclaimed that Hillhaven Rehabilitation and Convalescent Center be designated as the North Pole Substation in recognition of the Center's Ho-Ho Hotline, a program for the residents, where children can call and talk to "Santa Claus".

Mayor Bissette presented the proclamation to Agnes Taylor, who presented the Mayor with a Ho Ho Hotline Certificate.

II. PUBLIC HEARINGS:

A. **Public hearing relative to Asheville Mall Expansion.**

Mayor Bissette said the Asheville Planning and Zoning Commission at a called meeting on June 19, 1985, reviewed and approved the site plan of the Expansion of the Asheville Mall subject to nine contingencies. The Commission also recommended that the City Council, at a later date, request that a study be made of the feasibility of making Bracketown Road one-way out only to White Pine Drive. A grading plan was submitted and approved on January 15, 1987, and this work has been completed.

Mayor Bissette opened the public hearing at 4:20 P.M.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Planning Director, said the Planning and Zoning Commission recommended approval of the project subject to the following conditions:

1) Establish and maintain buffering to extend southerly along the contour line, Sheet R3A2, on sheet dated 6-10-85, and that be extended to the northeast corner of Lot 65 until it intersects with the new buffering;

2) Approve the gross parking (full deck as shown) area plan, but in the event the deed restrictions will not permit this plan that parking plan two, with the triangle cut off of the deck, be approved;

3) That the plans be updated to show the contours as it relates to Mr. Rex Moseley's property;

4) That the detailed R3A3, typically new buffering, be tied down with the dimension of 2-1/2 feet from the right-of-way of the property line to the first planting be added. (Clarified from lip of bank to fence line) (Marked on plans);

5) That it be in compliance with present erosion control;

6) That existing contours on portions of the Johnson property zoned residential are not to be disturbed;

7) The location as well as the elevations of the buffering as shown on this plan is a fundamental condition of approval of this group development proposal;

8) Require a schematic drawing of the existing drainage system and the proposed drainage system to be submitted to staff prior to its going to City Council; and

9) Require a schematic lighting plan to be submitted prior to its going to City Council.

The Commission further voted to recommend that City Council be requested to study the feasibility of making Bracketown Road one way out only on White Pine Drive.

Mr. Emrick noted that the Traffic Engineer had taken traffic counts on Bracketown Road on March 25, 1985 indicating a count of 5,047 during peak periods and on December 2, 1987 showing a count of 4,565 during peak periods. He said the decrease is due to recent improvements to U. S. 70 and the entrances to the Asheville Mall.

Mr. John Stevens, Attorney for the Asheville Mall, said the Mall owners have been negotiating with existing and new tenants since the property at the Mall was rezoned in the Spring of 1985. He said Asheville Mall is proposing a new wing to include a new store with a series of shops. The new wing would be located in a southwesterly direction behind Belk's close to the Mall theaters. He said a parking deck is also planned as part of the expansion.

Danie Johnson, Architect for the Project, said for the record he would note that Council is reviewing plans entitled R3, R3A2, and R3A3. He said these plans are the same plans reviewed by the Planning and Zoning Commission with the exception that changes have been made to comply with the conditions outlined by the Planning and Zoning Commission.

Mr. Johnson said the expansion project includes a two-story structure to house a department store of 130,000 square feet at a cost of approximately $18 to $20 million. He said parking would be provided by a single story parking deck with 700 parking spaces. He said grading has been substantially completed. He said the traffic pattern is as recommended by Wilbur Smith and Associates, Traffic Consultants. He said the project will also include the upgrading of the interior of the existing Mall. He said the parking deck is scheduled to begin in January, 1988 and mall construction is scheduled to being in July, 1988. He said the existing storm drainage system would be utilized. He said the lighting plan for the area will cause no bleed over into the residential area. He said the project is designed where no requests for variances is needed and

the owners will comply will all conditions outlined by the Planning and Zoning Commission as well as conditions outlined by Council in the rezoning of the property. He said a tremendous amount of time, effort and money has been put into the project and he requested Council's favorable approval and support of the project. He also requested that Council consider the economic impact of the project.

The following individuals spoke in opposition to the project because of additional noise and fumes from cars, storm drain problems created by the Mall, buffering problems and trash generated by mall patrons. The main area of contention was traffic problems on White Pine Drive, generated by Bracketown Road leading from the north side of the Sears Parking Lot to Tunnel Road via White Pine Drive. It was noted the area from Bracketown Road is usually packed with cars entering and leaving the mall through the Sears lot causing difficulty for area residents to enter their neighborhood.

Brad Thompson, 281 White Pine Drive
Rex Mosely, 28 White Pine Drive
Mr. Fore, 4 East Shore Drive
Bob Young, with U. S. Senator Terry Sanford's Office, speaking on behalf of the residents who had contacted the Senator's Office relative to the problems associated with Bracketown Road. He said he had a petition with 157 signatures relative to these problems. He requested that Council request a feasibility study from N.C.D.O.T. to make the area safer for the residents.
Janice Willard, 292 White Pine Drive
Arthur Williams, 36 White Pine Drive
Helen Payne, 290 White Pine Drive
Mrs. Dewey Ramsey, 258 White Pine Drive
Harold Payne, 290 White Pine Drive - Co-Chairman of Kenilworth Forest Homeowners Association
Dewey Ramsey, 258 White Pine Drive
William Payne, 290 White Pine Drive

Councilman Price requested that the landscape plan for the project be resubmitted to Council for review and approval.

Upon inquiry of Vice-Mayor Michalove, Danie Johnson said the Wilbur Smith and Associates traffic recommendations did not include specific recommendations for Bracketown Road since it is not on Asheville Mall property. He said studies have shown that at present approximately 391 trips are made into the mall through Bracketown Road and 360 trips are made out of the mall through Bracketown Road. He said it is

projected after the expansion that 446 trips will be made into the mall through Bracketown Road and 417 trips will be made out through Bracketown Road.

Upon inquiry of Vice-Mayor Michalove as to how critical it would be to leave Bracketown Road open, John Stevens said since Bracketown Road is not a public street, and Sears owning the land; Sears as well as other mall tenants would have a vital interest in Bracketown Road.

Vice-Mayor Michalove said he felt further studies need to be made as far as Bracketown Road is concerned and Council should consider all options to alleviate traffic problems in the area.

Danie Johnson, in response to Vice-Mayor Michalove relative to the storm drainage problem on Mrs. Willard's property, said McGill Associates and City Staff determined that the problem is not associated with the mall property but with the drainage direction on White Pine Drive. He said to correct this problem it was suggested that the City redirect the drainage to the western side of White Pine Drive. He said it was also determined that the drainage system on the mall property is adequate to carry a 25 year storm capacity. He said steps will be taken not to increase the problem.

Councilman Price suggested that Council continue the public hearing for two weeks giving the staff an opportunity to study the problems associated with Bracketown Road.

Upon inquiry of Councilman Frank, Danie Johnson said the lighting level for the expansion will be the same as the existing system.

John Stevens said the entire expansion project has been carefully reviewed by the Planning and Zoning Commission and Council and the project will be complying with all ordinances and conditions outlined by the Commission and Council. He said the project needs to go forward and Bracketown Road can be addressed separately from the expansion project. He said the owners of the Mall will cooperate with any studies relative to Bracketown Road.

After discussion, Councilman Price moved to continue the public hearing for two (2) weeks without further advertisement and that the City Manager and City Attorney obtain all information possible relative to alternatives to alleviate traffic problems on Bracketown Road and White Pine Drive. This motion was seconded by Councilman Martin.

After further discussion, Councilman Price's motion failed on a vote of 4-3 with Mayor Bissette, Vice-Mayor Michalove, Councilman Frank and Councilman Bratton voting "no".

Mayor Bissette closed the public hearing at 7:15 P.M.

Vice-Mayor Michalove moved that the site plan be approved subject to the conditions stipulated by the Planning and Zoning Commission as outlined in a letter dated June 21, 1985 from Verl Emrick, Planning Director, to Mayor and Members of Council; further that the developer resubmit a landscaping plan to be approved by Council; and further that the City reserves the right to deal with ingress and egress on Bracketown Road after a report is received from the City Manager relative to possible alternatives, said report to be given to Council by January 12, 1987 in a public meeting; further that the City Manager give members of Council a report relative to storm drainage on White Pine Drive. This motion was seconded by Councilman Bratton.

Corporation Counsel Slawter suggested that Vice-Mayor Michalove's motion contain language that the developer would be obligated to abide with any determination made by City Council in regard to access to Bracketown Road and if the developer does not abide with Council's determination that the site plan approval be revoked.

Councilmembers noted that if the language suggested by the Corporation Counsel is added to the motion that this in essence is postponing action on the site plan until after January 12, 1987..

After discussion, Vice-Mayor Michalove withdrew his motion, which was accepted by Councilman Bratton.

Councilman Price then reentered her motion to continue the public hearing for two (2) weeks without further advertisement and that the City Manager and City Attorney obtain all information possible relative to alternatives to alleviate traffic problems on Bracketown Road and White Pine Drive. This motion was seconded by Councilman Martin and carried unanimously.

B. **Public hearing relative to Sevier Street Apartments, Phase A.**

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting on November 11, 1987, reviewed and approved the site plan of Sevier Street Apartments, Phase A, subject to reducing the number of units to nine, specifically deleting unit number one, and compliance with Erosion Control Ordinance.

Mayor Bissette opened the public hearing at 7:31 P.M.

The City Clerk presented the notice to the public setting the time and date of the public hearing and the affidavit of publication.

Verl Emrick, Planning Director, said the proposed project is located on Sevier Street with access from Barnard Avenue. He said the developers have agreed to comply with the stipulations of the Planning and Zoning Commission. He said water, sewer, fire, and access provisions for the project have been approved.

Mayor Bissette closed the public hearing at 7:34 P.M.

Councilman Price moved for the approval of the site plan for the Sevier Street Apartments, Phase A, subject to the stipulations outlined by the Planning and Zoning Commission. This motion was seconded by Councilman Boland and carried unanimously.

III. OLD BUSINESS:

A. Ordinance No. 1668 - Second reading of an ordinance amending Section 28-52 (b) of Chapter 28 of the Code of Ordinances of the City of Asheville prohibiting truck traffic on Hazel Mill Road, between Patton Avenue and North Louisiana Avenue.

Mayor Bissette said this action will add the portion of Hazel Mill Road, between Patton Avenue and North Louisiana Avenue, to the list of streets on which certain truck traffic is prohibited.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be reread in its entirety.

On a roll call vote of 7-0, Ordinance No. 1668 passed on second reading.

IV. NEW BUSINESS:

V. CONSENT:

A. Resolution authorizing the Mayor to execute an agreement between Southern Railway Company and the City of Asheville for reconstruction of the Hazel Mill Road Bridge.

SUMMARY: This agreement will allow the City of Asheville to encroach upon the right-of-way of Southern Railway Company for the

purpose of reconstructing Hazel Mill Road Bridge.

B. Resolution authorizing the City Manager to sign an agreement with the Skyland Volunteer Fire Department, Inc. for fire protection services at the Airport Annexation Area.

SUMMARY: This is a continuation of the agreement with the Skyland Volunteer Fire Department to provide fire protection to the area at the Asheville Regional Airport within the corporate limits.

C. Resolution authorizing execution of an agreement with the Municipal Code Corporation.

SUMMARY: The City Code was last written in 1965. Due to numerous changes in the law since that time, portions of the existing City Code are outdated. The Municipal Code Corporation has made a proposal to prepare and publish a new Code of Ordinances for the City. This resolution will authorize the City Manager to execute a contract with Municipal Code Corporation for the preparation of a new Code.

Upon motion of Vice-Mayor Michalove, seconded by Councilman Frank, the consent agenda was unanimously approved.

CLAIMS - DENISE CODY (WATER) - KATHERINE DUCKER (WATER) - SANDRA CAPPS (WATER) - MARTHA LOWE (WATER) - JERRY BURLESON (POLICE) - KEITH GILLESPIE (FIRE) - ROSELYN NORWOOD (STREETS)

The City Manager presented claims received from Denise Cody, Katherine Ducker, Sandra Capps, Martha Lowe, Jerry Burleson, Keith Gillespie, and Roselyn Norwood.

GEORGE TISDALE - COMMENTS RELATIVE TO REQUEST FOR STATE AUDIT ON PACK PLAZA PROJECTS

George Tisdale, 65 Shorewood Drive, former Councilman, requested that the minutes of the December 1, 1987 meeting be amended to include Mayor Bissette's statement relative to Mr. Tisdale's request for a state audit on the Pack Plaza Projects be included in the minutes.

The exact statement being "Councilman Tisdale, we appreciate that idea last week and as you know we are trying to follow through on it and if we can develop some specifics which we are trying to do, then the Council will consider that request and, of course, keep you apprised of Council's decision."

Councilman Price moved that the minutes of the December 1, 1987 meeting be amended to include Mayor Bissette's statement as requested by Mr. Tisdale. This motion was seconded by Vice-Mayor Michalove and carried unanimously.

Mr. Tisdale said after last weeks meeting he had made contacts with the City Staff and Housing Authority to obtain all the documents he needed to set out specifics relative to the Pack Plaza Projects. He said he has had difficulty in obtaining all the documents he needed, making contact with the appropriate officials involved in the two projects and deciphering the information he did receive. He said he had tried to retain legal counsel to assist him in this matter, but unfortunately, every lawyer he would like to consider is tied up with one of these two projects and has a conflict of interest. He said he may have to go out of town to obtain legal counsel.

Mr. Tisdale then presented specific documents relative to the two projects, starting back in 1981 with the Strouse Greenberg proposal. He said from observing these documents there is no documented record of time city employees have spent working with the projects; the fact that the federal Department of Housing and Urban Development no longer does annual audits on the city and the Asheville Housing Authority; there is no documentation of meetings with Pack Plaza developer, Schneider Nine and other downtown developers or of meetings with lending institutions; that he questions how the city achieved a 7.3 percent loan rate on a loan to Schneider Nine.

Mr. Tisdale said he has requested copies of all Housing and Urban Development's monitoring visit reports and copies of the City's response to these visits. He cited discrepancies noted in one monitoring report which he interpreted as "not too good of an audit."

Mr. Tisdale discussed in detail actions taken relative to Plaza Theatre. He questioned why the City Building Inspectors were not involved with this parcel.

Mr. Tisdale also questioned the signatures obtained on Resolution No. 84-31, dated February 22, 1984 and the signatures on the agreement specified in the resolution.

Mr. Tisdale said after reviewing the documents he has obtained he really had more questions than he did answers. He said he still thinks the air needs to be cleared on both projects, and requested that Council consider letting the State Auditor conduct an Audit Review and if necessary a full audit of the two projects.

In response to Mr. Tisdale, Mayor Bissette said he had not received a list of specific questions Mr. Tisdale wanted answered. He said he was having difficulty focusing on exactly what Mr. Tisdale wanted. He said members of Council would go

over what information has been given to them to determine if an audit is necessary.

Roger McGuire, Chairman of the Board for Pack Place, in response to Mr. Tisdale, said the individuals involved in the projects are puzzled as to what they can contribute to help solve Mr. Tisdale's questions. He said it is regrettable that the appearance in the press is that something is strange about Pack Place. He asked that Mr. Tisdale tell them what it is he wants so they can help respond. He said the project is on schedule to open in the fall of 1989. He said he felt Mr. Tisdale's charges are totally without merit.

Mr. Tisdale responded that as a previous elected official he is concerned about the project and he was not questioning the service or decisions made by Roger McGuire or John Daniel, but only the matters he as a Councilmember had to make decisions on relative to these projects.

Note: A complete tape recording of these proceedings will be on file in the City Clerk's office for one year.

ADJOURNMENT

Upon motion of Councilman Michalove, seconded by Councilman Martin, the meeting adjourned at 8:50 P.M.

MAYOR

CITY CLERK

Tuesday - December 15, 1987 - 4:00 P.M.

Regular Meeting

Present: Vice-Mayor Kenneth M. Michalove, Presiding; Councilmen Mary Lloyd Frank; Norma T. Price, Wilhelmina Bratton, Russell M. Martin, and Walter Boland; Corporation Counsel William F. Slawter; Assistant City Manager Charles Penny; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Mayor W. Louis Bissette and City Manager Douglas O. Bean (attending National League of Cities Meeting)

INVOCATION

The invocation was given by Councilman Martin.

APPROVAL OF MINUTES - DECEMBER 8, 1987

Vice-Mayor Michalove announced the approval of the minutes of the December 8, 1987 meeting as submitted.

I. PROCLAMATIONS:

II. PUBLIC HEARINGS:

A. **Public hearing relative to Adams Hill Mobile Home Park.**

Vice-Mayor Michalove said the Asheville Planning and Zoning Commission at a meeting on November 11, 1987, reviewed and approved the site plan subject to several conditions.

Vice-Mayor Michalove opened the public hearing at 4:20 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the project is to be located north of Louisiana Avenue. He said the project meets all requirements of the zoning ordinance. He said access points to the project have been reviewed by the N.C.D.O.T. Traffic Engineer and the City Traffic Engineer. He said the Planning and Zoning Commission recommended approval of the site plan subject to the following: That the plan be approved provided an 80' buffer be provided between any lot for mobile home use and the adjacent property owners along the property lines bearing N 85 deg. 27' 04" 464.17', S 80 deg. 33' 27" W 275.68', appearing to be adjacent to the

Roger Keener, Charlene Webb and Edwin Hensley property; no land disturbing activities to be permitted on this 80' buffer except for purposes of control of storm water and that planting be in accordance with the buffering requirements for the entire 80', subject to review by the appropriate sedimentation board review authority. That a temporary silt basin and permanent silting basins be installed in the two buffer areas mentioned before and also for Area C. Pumping station closest to space number 29 will have to be moved up the hill 60'.

Upon inquiry of Councilman Price, Mr. Emrick said in his opinion the concerns expressed by individuals during the Planning and Zoning Commission meeting were addressed by the stipulations specified by the Planning and Zoning Commission.

Vice-Mayor Michalove closed the public hearing at 4:32 p.m.

Councilman Frank moved to approve the site plan of the Adams Hill Mobile Home Park subject to the conditions specified by the Planning and Zoning Commission. This motion was seconded by Councilman Martin and carried unanimously.

III. OLD BUSINESS:

A. Ordinance No. 1668 - Third reading of an ordinance amending Section 28-52 (b) of Chapter 28 of the Code of Ordinances of the City of Asheville prohibiting truck traffic on Hazel Mill Road, between Patton Avenue and North Louisiana Avenue.

Vice-Mayor Michalove said this action will add the portion of Hazel Mill Road, between Patton Avenue and North Louisiana Avenue, to the list of streets on which certain truck traffic is prohibited.

Vice-Mayor Michalove said this ordinance was previously read on first and second reading and would not be reread in its entirety.

On a roll call vote of 6-0, Ordinance No. 1668 passed on third and final reading.

Ordinance Book No. 11 Page No. 222

IV. NEW BUSINESS:

A. **Ordinarce No. 1669 - Budget Ordinance amendment to provide funding for Vance School Drainage Project.**

Vice-Mayor Michalove said this budget ordinance amendment will provide funding for Vance School Drainage Project.

Vice-Mayor Michalove said this ordinance was previously presented to members of Council and would not be read in its entirety.

On a roll call vote of 6-0, Ordinance No. 1669 passed on first and final reading.

Ordinance Book No. 11 Page No. 223

B. **Resolution No. 87-215 - Resolution authorizing City Manager to execute an agreement with Huntley Construction Company for the construction of the Vance School Drainage Improvements.**

Vice-Mayor Michalove said this project involves the installation of approximately 420 l.f. of 42" storm sewer and associated appurtenances in Harnett Street and Sand Hill Road in the vicinity of Vance School. The object of these improvements is to alleviate a drainage problem adjacent to the Vance School property. Plans and contract documents were prepared and a low bid received from Huntley Construction Company in the amount of $69,542.50.

Vice-Mayor Michalove said the resolution was previously presented to members of Council and it would not be read in its entirety.

Upon motion of Councilman Price, seconded by Councilman Boland, Resolution No. 87-215 was unanimously adopted.

Resolution Book No. 17 Page No. 48

C. **Approval of temporary freestanding identification sign for Piney Mountain Associates to be located at 305 Pine Mountain Drive.**

Vice-Mayor Michalove said this free standing identification sign will be situated closer than 600' from a limited access highway, requiring the approval of Council pursuant to Zoning Ordinance No. 322.

Verl Emrick, Director of Planning, said this temporary identification sign will be a construction sign for the condominium project

approved by Council last summer. He said the owners are requesting that the construction sign be 160 square feet. He said the Sign Ordinance allows construction signs, however the usual temporary sign is 50 square feet and is allowed for a specified time.

After discussion, Councilman Martin moved to approve a temporary identification sign for Piney Mountain Associates to be located at 305 Pine Mountain Drive provided that the sign be no more than 50 square feet and further that the sign permit be reviewed in six (6) months to determine if the construction sign is still needed. This motion was seconded by Councilman Frank and carried unanimously.

D. Sign Permit for 2 wall signs and 1 freestanding sign to be located at 111 Hazel Mill Road for Federal Express.

Vice-Mayor Michalove said these signs will be situated closer than 600' from a limited access highway, requiring the approval of Council pursuant to Zoning Ordinance No. 322.

Verl Emrick, Director of Planning, said the two 4 x 9 wall signs will be used as a logo sign and identification sign for parking and access information. He said the 5 x 7 freestanding sign was approved, during the approval of the group development plan, however due to elaborate landscaping plans and visibility being limited the owners wish to move the sign closer to the access to the building. The owners plan to place the sign on N.C.D.O.T right-of-way. Mr. Emrick said the Asheville Sign Ordinance will not allow signs to be placed on a right-of-way.

A representative from Creative Signs of Asheville said because of the awareness of the zoning and Council's concerns the 5 x 7 freestanding sign has been reduced in size to 3.4 x 7.1. He said the signs will be moved from the old location of Federal Express. He said the signs will be single-sided.

After discussion, Councilman Frank moved to approve the sign permit for two (2) wall signs and one (1) freestanding sign to be located at 111 Hazel Mill Road for Federal Express. This motion was seconded by Councilman Price and carried unanimously.

E. Announce cancellation of December 29, 1987 meeting.

Vice-Mayor Michalove announced that due to the Christmas Holidays, there will be no meeting of Council on December 29, 1987.

RESOLUTION NO. 87-216 - RESOLUTION BY THE GOVERNING BOARD OF THE CITY OF ASHEVILLE TO PROVIDE FOR A REFERENDUM BY THE GOVERNMENTAL UNIT'S ELIGIBLE POLICEMEN UNDER PROVISIONS OF ARTICLE 2 OF CHAPTER 135 OF THE GENERAL STATUTES OF NORTH CAROLINA AND UNDER PROVISIONS OF THE GOVERNOR'S EXECUTIVE ORDER OF JULY 21, 1961

The Assistant City Manager read the resolution which would allow for a separate referendum of eligible policemen, on March 15, 1988, to determine whether or not the Local Governmental Employees' Retirement System, as it applies to eligible policemen or other law enforcement members, shall be coordinated with the Old-Age Survivors Insurance provisions of the Federal Social Security Act.

Upon motion of Councilman Price, seconded by Councilman Martin, Resolution No. 87-216 was unanimously adopted.

Complete text of Resolution No. 87-216 will be found in Resolution Book No. 17 at Page 49.

RESOLUTION NO. 87-217 - RESOLUTION BY THE BOARD OF DIRECTORS OF THE CITY OF ASHEVILLE TO PROVIDE FOR A REFERENDUM BY THE CITY OR TOWN'S ELIGIBLE EMPLOYEES UNDER PROVISIONS OF ARTICLE 2 OF CHAPTER 135 OF THE GENERAL STATUTES OF NORTH CAROLINA AND UNDER PROVISIONS OF THE GOVERNOR'S EXECUTIVE ORDER OF JULY 21, 1961

The Assistant City Manager read the resolution which would allow for a separate referendum of eligible firemen, on March 15, 1988, to determine whether or not the Local Governmental Employees' Retirement System, as it applies to eligible firemen as members of this governmental unit, shall be coordinated with the Old-Age Survivors Insurance provisions of the Federal Social Security Act.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 87-217 was unanimously adopted.

Complete text of Resolution No. 87-217 will be found in Resolution Book No. 17 at Page 50.

CLAIMS - HILDA SULLIVAN (STREETS) - BOB BOEBERTIZ (STREETS) - JOSEPH AUSTIN (PARKS)

The Assistant City Manager presented claims received from Hilda Sullivan, Bob Boebertiz, and Joseph Austin.

Vice-Mayor Michalove referred the claims to the Corporation Counsel for investigation and recommendation.

REPORT FROM CORPORATION COUNSEL - ASHEVILLE SPEEDWAY

The Corporation Counsel reported that on December 11, 1987, Judge Walter Allen issued a Declaratory Judgement with regard to the application of the Asheville Zoning Ordinance to the Asheville Speedway. In the ruling Judge Allen said the Asheville Speedway conforms to local zoning laws and would not apply to the specific provision regarding certain non-conforming uses being prohibited after ten (10) years from its adoption in October, 1977. He said in summary, the ordinance as adopted by Council in October, 1977 has not been held up by the courts in regard to racetracks. He said Council has two choices: 1) Appeal Judge Allen's decision or 2) look at other alternatives to alleviate the problems associated with the racetrack. He said in his opinion Judge Allen's decision would be upheld if the City appealed the decision to a higher court.

After discussion, it was the unanimous decision of Council not to proceed with an appeal to a higher court but to work with the race track owner in an attempt to modify the speedway's noise level and hours of operation in response to complaints by City residents.

After further discussion, Council directed that the City Staff prepare a report by January 19, 1988 dealing with other businesses which would be affected by the non-conforming use provision of the Zoning Ordinance; the status of the city's noise ordinance; what other cities have done in regard to racetracks; and alternatives for different hours of operation and schedules for practice and actual races at the track.

Vice-Mayor Michalove said the public would be given an opportunity to speak relative to the racetrack at the January 19, 1988 meeting.

RALPH BISHOP - RIGHT OF REDRESS

Ralph Bishop spoke to members of Council relative to his right of redress before the Asheville City Council.

ADJOURNMENT

Upon motion, the meeting adjourned at 5:15 p. m.

MAYOR

CITY CLERK

Tuesday - December 22, 1987 - 400 P.M.

Regular Meeting

Present Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove, Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, and Walter Boland; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent Russell M. Martin - Vacation

INVOCATION

The invocation was given by Councilman Boland.

APPROVAL OF MINUTES - DECEMBER 15, 1987

Mayor Bissette announced the approval of the minutes of the December 15, 1987 meeting as submitted.

I. PROCLAMATIONS

None

II. PUBLIC HEARINGS

None

III. OLD BUSINESS

A. ACTION RELATIVE TO ASHEVILLE MALL EXPANSION

Mayor Bissette said the Asheville Planning and Zoning Commission at a called meeting on June 19, 1985, reviewed and approved the site plan of the Expansion of the Asheville Mall subject to nine contingencies. The Commission also recommended that the City Council, at a later date, request that a study be made of the feasibility of making Bracketown Road one-way out only to White Pine Drive. A grading plan was submitted and approved on January 15, 1987, and this work has been completed. At the December 8, 1987 meeting Council postponed action relative to the expansion until December 22, 1987 in order to obtain additional information relative to Bracketown Road.

Verl Emrick, Director of Planning and Zoning, said staff had met with Gene Edmonds, District Engineer with the N. C. Department of Transportation; and Bob McDonald, Traffic Engineer; to look at the problems being encountered at Bracketown Road and White Pine Drive. He said they would recommend adding an additional lane on White Pine Drive from the top of the hill down to Tunnel Road and to modify the entry of Bracketown Road into

White Pine Drive by creating a "T" intersection. He said the additional distance on White Pine Drive would give individuals a greater sight distance and would allow more time for making a decision on which traffic lane to enter.

Mr. Emrick said in order to determine the flow of traffic into and out of the Mall, the following traffic counts had been made from Saturday through Monday at the following intersections

Intersection	Sat./Dec 19	Mon./Dec. 21
Bracketown Road	8,154	5,154
Sears Auto Entrance	5,139	2,800
Main Entrance/Beaucatcher Cinema Theaters	11,104	10,573
Center Entrance/K-Mart (Proposed to be Closed)	5,677	3,922
South Entrance	14,824	8,815
Total Counts	44,898	31,264

In response to Mayor Bissette's request for an opinion on the City's legal right for controlling traffic on Bracketown Road, City Attorney William F. Slawter said Bracketown Road is a private road owned by Sears, the Mall, and other property owners. He said the road has not been dedicated to the City and is not maintained by the City; therefore, the City has no legal right to control traffic on the road.

Mr. Emrick said Assoc. City Manager William F. Wolcott, Paul Gilewicz and Tom Tarrant of the Engineering Division, Planner Al Kopf and himself had met at Mrs. Willard's residence at 292 White Pine Drive to look at the drainage problem she had been experiencing. He said following that site inspection, they agree that additional studies and data are needed to determine what alternatives are available to resolve the problem. In the meantime, he said, they propose to divert some of the water off from White Pine Drive to another storm drain system. He said Mrs. Willard had been advised of the group's findings and recommendations.

Mr. Danie Johnson, Architect for the project, said Council had been presented with revised drawings of the Buffering Plan, which were dated yesterday. He said these drawings reflect the following changes

Parking Lot Trees - 112 trees will be planted in the parking lot based on 1690 parking spaces. He said 36 of these trees will be planted within "710" parking field near Belk's. He said these plantings will exceed the requirements of the current ordinance.

White Pine Drive Buffer - Redrew Typical New Buffering (1/R3A3) - For lots 43, 45, 47, 49, and 51 and other locations as determined by Planning Staff, buffer will consist of 8-ft chain link fence with tennis screening, 2 rows of evergreens at least 8-ft high (staggered) and additional plantings consisting of foster holly, mountain laurel, and rhododendron.

Upon inquiry of Councilman Price, Mr. Johnson said the lighting plan for the project had not been finalized yet, but upon completion would be submitted to city staff for approval.

Mayor Bissette said a public hearing had already been held on this issue, but that he wanted to give everybody interested in the project an opportunity to speak. However, he requested that everybody restrict their comments to the new information presented.

Mr. Harold J. Payne, Jr., 299 White Pine Drive, said that he doesn't see how adding the additional lane on White Pine Drive will alleviate the traffic problem. He said this would only permit 2 lanes of traffic to back up on White Pine Drive. He also questioned whether or not the additional lane would cut into the present buffer zone. He said he had a personal concern about a road (Bracketown Road) emptying onto a city street and the City having no control over it.

City Attorney William F. Slawter said Bracketown Road has been a long standing road that has been used by various property owners and was not built during the original development of the Mall.

Councilman Price said the city staff is working with the N. C. Department of Transportation for the installation of a leading green on the traffic signal at White Pine Drive and Tunnel Road. She said she felt the signal, combined with the additional lane, would improve the traffic conditions for the residents of White Pine Drive.

Helen Payne of 299 White Pine Drive asked who is the actual owner of Bracketown Road to which the City Attorney responded that Sears, the Mall, IHOP, and any other property owner whose property adjoins the road, have equal rights to use of the road by virtue of their property adjoining the road.

There was a short discussion relative to the width of the proposed additional lane and whether or not it would leave room for the 50-foot buffer strip. Mr. Emrick said he thought the new lane would leave a 48-foot buffer strip.

Mrs. Payne said she would prefer the buffering over the proposed lane, but that she would like the "T" intersection to ensure that tractor-trailers cannot make the turn onto Bracketown Road. She said the city's figures show this to be the third most used exit/entrance to the Mall, and that the residents of White Pine Drive are depending on the Council for assistance.

Mrs. Janice Willard, 292 White Pine Drive, said the flooding problem on her property had not been resolved. She said she had been given a copy of the report that recommends taking 25% of the rainfall from System B and diverting it to System A. However, she said, this proposal will not alleviate the problem and she asked what the City intends to do. She said she is not able to use her backyard due to the flooding problem.

On the show of hands requested by Mrs. Willard, it was the consensus of the residents of White Pine Drive that the proposed additional lane on White Pine Drive would not be of any benefit to resolving their traffic problem.

Mayor Bissette told Mrs. Willard that her drainage problem would not be any worse, but may improve and be better as a result of the proposed diversion of water off White Pine Drive. He said the City is also looking at other drainage improvements on White Pine Drive. He said the site plan being considered by the City Council should not affect her flooding problem. He said the city has storm drainage problems all over the city to which there are no immediate solutions due to the astronomical cost.

Mr. Rex W. Mosely, 28 White Pine Drive, said he thought the "T" intersection on Bracketown Road would be of some benefit, but was against the proposed extra lane because he felt it would not help traffic problem.

Mr. Rendell Davis, 285 White Pine Drive, said he could see a big difference between property owners having access to a city street and a development that pulls 8,000 cars a day onto a city street. He said this is an interesting problem, and court may be where the problem has to go.

Mrs. Florence Davis, 285 White Pine Drive, said the backup of traffic can create a dangerous situation when emergency vehicles are needed in the White Pine residential area.

Mr. J. C. Chandley, 48 White Pine Drive, said he felt the City should do whatever is necessary to keep the White Pine lanes of traffic open.

Mr. Phillip Hawkins, 244 White Pine Drive, asked the following questions:

Q. Why can't the City determine who owns Bracketown Road? He said he thought this would be fairly simple by just looking at the tax records.

City Attorney William F. Slawter said the ownership could probably have been determined with several more hours of research. However, he said, the ownership of the road was not what really mattered, but rather who had rights to the use of the road.

Q. How can City Council propose to change the intersection to a "T" intersection if they can't determine ownership?

Mayor Bissette said the construction of the intersection would be done within the right-of-way.

Q. If City put in a new lane, who would own it?

City Attorney William F. Slawter said any improvements within the righ-of-way would be owned by the City. Also, he said, if it is built outside of the city's right-of-way and built to the city's specifications, it could be dedicated to the City.

Q. Driveway Access to White Pine Drive (where house used to be) - This is currently being used by cars from the Mall and city vehicles. Can the City Council stipulate that the Mall will never take any more of the existing residential property in Kenilworth Forest as entrance/exit into Kenilworth Community and would the stipulation be binding?

City Attorney William F. Slawter said the current City Council could not make any zoning restrictions that would be binding on future City Councils. However, he said, as long as the area remains a residential area and zoned as such, this could not be done.

Q. Are the provisions of previous City Councils still valid after this Council approves this group development plan today? Will the area known as "the triangle" be wiped out? Does the Council know what the initial stipulations were? What's going to happen in the future?

Mayor Bissette said a new City Council could come in and rezone the whole city, but he felt the previous City Council's stipulations would be valid after today's Council action.

Q. How much will the City benefit from the expansion?

Mayor Bissette said the Council, regardless of their personal emotions, must approve site plans of proposed projects based on whether or not they meet the guidelines of the laws in effect without consideration to what benefit the project will be to the tax base or any other benefits the project may bring to the city.

Mr. Hawkins said he didn't think the City had caused Mrs. Willard's drainage problems because it was not there before the Mall was built. He said the problem was caused by the Mall construction, and the taxpayers should not have to pay for the studies and steps taken to alleviate the problem.

Mayor Bissette said the same type of drainage problems have occurred all over town by construction that has taken place since the 1900's.

Mr. Dewey L. Ramsey, 258 White Pine Drive, asked whether or not Council could take any action if the Mall is adversely affecting the community. He said the closing of the entrance on South Tunnel Road will divert more traffic to Bracketown Road and will impose an additional burden on White Pine Drive.

Mayor Bissette said the Council could not do anything unless it was a matter of public safety. The City Attorney also said the City cannot arbitrarily deny site plans when the group development guidelines have been met.

Mr. Donald P. Ingold, P.E., Vice President of Wilbur Smith Associates, said his company had been hired by Mr. Coleman to study the traffic situation at the intersection of White Pine Drive with Bracketown Road and the intersection of White Pine Drive with U.S. 70/74. He said northbound vehicles on White Pine Drive back up onto Bracketown Road. This restricts northbound traffic on White Pine Drive from accessing the right/through lane at US 70/74, thereby removing the possibility of a right turn on red. However, he said, the conflicting eastbound traffic is so heavy the right turn on red movement is very difficult and highly unlikely during peak periods.

Mr. Ingold said he identified additional problems at the intersection of White Pine Drive and US 70/74. These problems add to the delay at the intersection of White Pine and Bracketown Road. He said the delay at this intersection has been calculated at 38 seconds for left turning vehicles and 28 seconds for right turning and through vehicles. He said his analysis revealed a need for a protected westbound left-turn phase at the intersection.

Mr. Ingold said his recommendations to Mr. Coleman included the following:

1. Add short leading left-turn to traffic signal at White Pine Drive.

2. Ask the N. C. Department of Transportation to shorten the cycle length of the signal at White Pine Drive.

3. Extend right-turn lane through intersection of White Pine Drive.

4. Vigorous enforcement by Police Department of traffic blocking intersection.

Upon inquiry of Councilman Price, Mr. Danie Johnson said the old driveway that leads onto White Pine Drive will be closed and a 50-foot fence installed and trees planted.

Councilman Price moved to approve the site plan of the proposed Mall Extension subject to the nine (9) conditions recommended by the Planning and Zoning Commission, and also contingent upon staff approval of the landscaping and lighting plans; that the Mall construct a "T" intersection from Bracketown Road onto White Pine Drive according to city standards and approved by city staff. Further, that White Pine Drive be widened from Bracketown Road to the International House of Pancakes, Inc. (IHOP), that the City make additional recommendations regarding Mrs. Willard's drainage problem, and that the City pursue the request to the N. C. Department of Transportation for a leading left-turn signal from Tunnel Road onto White Pine Drive and to study the synchronization of the traffic lighting in the area. This motion was seconded by Councilman Frank and carried unanimously.

IV. NEW BUSINESS

A. RESOLUTION NO. 87-218 - RESOLUTION ADOPTING FEES AND CHARGES MANUAL

Mayor Bissette said a fees and charges manual has been prepared which includes a brief description of the revenue, a fee schedule, and a cost recovery principal for each fee and charge so made by the City. The manual is scheduled for an annual review and update. In order to clarify a printing error in the Manual, Mayor Bissette said the effective date in the manual should read January 1-June 30, 1988.

Mayor Bissette said a copy of the resolution had been previously distributed to Members of Council and that the resolution would not be read unless there was a specific request to do so.

Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 87-218 was unanimously adopted.

Complete text of Resolution No. 87-218 will be found in Resolution Book 17, Page 51.

B. RESOLUTION NO. 87-219 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH JOHN L. LANTZIUS AND ANNETTE LOUISE LANTZIUS MODIFYING THE TERMS OF AN URBAN DEVELOPMENT ACTION GRANT AGREEMENT DATED OCTOBER 29, 1979

Mayor Bissette said this agreement will provide that the property known as 39 Broadway be released from the Deed of

Trust upon payment to the City of Asheville by John L. Lantzius and wife Annette Louise Lantzius of the sum of $45,000 to be applied toward the principal owed upon the note.

Mayor Bissette requested that he be excused from the discussion and vote on this issue since his law firm represents Mr. and Mrs. Lantzius.

Councilman Price moved to excuse Mayor Bissette. This motion was seconded by Vice Mayor Michalove and carried unanimously.

Mayor Bissette turned over the chair to Vice Mayor Michalove.

Vice Mayor Michalove said a copy of the resolution had been previously distributed to Members of Council and that the resolution would not be read unless there was a specific request to do so.

Councilman Frank moved to adopt Resolution No. 87-219 and to amend the resolution to provide for execution by the Vice Mayor. This motion was seconded by Councilman Price and carried unanimously.

Complete text of Resolution No. 87-219 will be found in Resolution Book 17, Page 52 and 53.

Vice Mayor Michalove turned the chair back over to Mayor Bissette.

V. CONSENT

A. RESOLUTION NO. 87-220 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF ASHEVILLE AND DELTA DENTAL PLAN OF NORTH CAROLINA, INC., FOR THE PURPOSE OF CONTINUING DENTAL BENEFITS TO THE CITY OF ASHEVILLE EMPLOYEES, FAMILIES, AND THE STAFF OF THE ASHEVILLE-BUNCOMBE COUNTY COMMUNITY RELATIONS COUNCIL

SUMMARY This resolution will authorize the City Manager to execute an agreement to continue dental benefits to the City of Asheville employees, families, and the staff of the Asheville-Buncombe County Community Relations Council during calendar year 1988.

Complete text of Resolution No. 87-220 will be found in Resolution Book 17, Page 54.

B. APPROVAL OF BIDS FOR FOUR (4) INCH DIAMETER FIRE HOSE

SUMMARY Recommendation for award of Bid Request No. 311-88 to Slagle Fire Equipment and Supply Company for 40 lengths of four (4) inch diameter fire hose for the Fire Department in the amount of $14,280.00.

C. RESOLUTION NO. 87-221 - RESOLUTION OF INTENT TO CLOSE AN UNNAMED ALLEY PARALLEL TO LEXINGTON AVENUE AND BILTMORE AVENUE AND CALLING A PUBLIC HEARING FOR JANUARY 26, 1988

SUMMARY A petition was received from the property owners along the unnamed alley - as shown on attached map. The petition requested that an unnamed alley be closed as a public alley.

Complete text of Resolution No. 87-221 will be found in Resolution Book 17, Pages 55 and 56.

D. RESOLUTION NO. 87-222 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH HOBSON CONSTRUCTION COMPANY FOR THE CONSTRUCTION OF THE CHAMPION SIPHON/SEWER IMPROVEMENTS

SUMMARY This project involves the installation of approximately 370 linear feet of siphon under the French Broad River and approximately 2300 linear feet of sanitary sewer on Pearson Bridge Road. Bids were opened for this project on December 10, 1987 and the lowest responsible bidder was Hobson Construction Company, Inc., in the amount of $239,152.00. It is recommended that the City Manager is authorized to execute an agreement with Hobson Construction Company, Inc., for this project.

Complete text of Resolution No. 87-222 will be found in Resolution Book 17, Page 57.

Upon motion of Vice Mayor Michalove, seconded by Councilman Boland, the consent agenda was unanimously adopted.

CLAIMS - KAREN HARRIS (WATER), LILLIE HUMPHRIES (WATER), OPAL MANN (SEWER)

The City Manager presented claims received from Karen Harris (Water), Lillie Humphries (Water), Opal Mann (Sewer).

Mayor Bissette referred the claims to the City Attorney for investigation and recommendation.

LAWSUIT - HARRY BRUMMER V. VERL EMRICK; HARRY BRUMMER V. WILLIAM F. SLAWTER (ALLEGED MISREPRESENTATION AND ABUSE OF POWER

The City Manager said lawsuits filed by Harry Brummer against Verl Emrick and William F. Slawter involving alleged misrepresentation and abuse of power were served which may affect the city.

Mayor Bissette referred the lawsuits to the City Attorney for investigation and recommendation.

ADJOURNMENT

Upon motion of Councilman Boland, seconded by Councilman Frank, the meeting adjourned at 630 P.M.

MAYOR

CITY CLERK

Tuesday - January 5, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell M. Martin, and Walter Boland; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Walter Boland - Vacation

INVOCATION

Councilman Price introduced Rev. Tony Clarke-Sayer with the Asheville Buncombe Community Christian Ministry who gave the invocation.

APPROVAL OF THE MINUTES - DECEMBER 22, 1987

Mayor Bissette announced the approval of the minutes of the December 22, 1987 meeting with several amendments to the motion relative to the Asheville Mall Expansion.

I. PROCLAMATIONS:

None

II. PUBLIC HEARINGS:

A. Continuation of a public hearing relative to closing a portion of Syrlin Street requested by Ellen Goldstein.

Mayor Bissette said a petition was received on July 17, 1987 from the property owner along a portion of Syrlin Street. The petition requested that a portion of Syrlin Street extending northward from the northern margin of Tax Lot 178 and Tax Lot 13-1/4 of Ward 9, Sheet 7, be closed as a public street right of way. This public hearing was on November 24, 1987 but was continued until January 5, 1988.

Mayor Bissette reopened the public hearing at 4:24 p.m.

Mayor Bissette said a request was received from the attorney involved in the closing of a portion of Syrlin Street to continue the public hearing due to a death in his family.

Councilman Michalove moved to continue the public hearing relative to closing a portion of Syrlin Street requested by Ellen Goldstein until January 12, 1988 without further advertisement. This motion was seconded by Councilman Price and carried unanimously.

B. **Public hearing relative to closing a portion of Syrlin Street requested by G. Findley Reed Jr., Norman C. Bradford, Virginia S. Bradford and others.**

Mayor Bissette said a petition was received on November 16, 1987 from the property owners along a portion of Syrlin Street. The petition requested that a portion of Syrlin Street between Tax Lots 178 and 13-1/4 of Ward 9, Sheet 7 or the Buncombe County Tax Maps, extending northward approximately 160 feet from the southern margin of said lots be closed as a public street right of way.

Mayor Bissette opened the public hearing at 4:25 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Due to Council's desire to hear both public hearings relative to the closing of portions of Syrlin Street at the same time Councilman Martin moved to continue the public hearing relative to closing a portion of Syrlin Street requested by G. Findley Reed Jr., Norman C. Bradford, Virginia S. Bradford and others until January 12, 1988 without further advertisement. This motion was seconded by Councilman Price and carried unanimously.

III. OLD BUSINESS:

Emergency Shelter Grant Agreements

Mayor Bissette said the next three agenda items dealing with Emergency Shelter Grant Agreements is a concern to Council in that when the City enters into these grant agreements the City will be responsible for seeing that the facilities remain open for a certain period of time at the exact location where the grant funds are expended. He said the Hospitality House and Eliada Home facilities will have to remain open for three (3) years and Asheville-Buncombe Community Christian Ministry for ten (10) years. He said social service programs are historically a county function, however, the applications were made for the grant funds by the City because of the deadline for submitting the applications. He said Council would like to accept the grant funds and perhaps contract with the Housing Authority to administer the grants and in turn the Housing Authority could contract with the agencies in order that all guidelines could be met and the facilities would remain open for the time period specified in the grant.

Tony Clarke-Sayer, with the Asheville-Buncombe Community Christian Ministry, said they are not abandoning the site on Coxe Avenue and are proceeding with the renovations of that facility. He said there is a possibility of a court case involving the site but they will defend their interest in the location. He said Asheville Buncombe Community Christian Ministry currently holds twenty (20) beds but they don't have enough beds to house the number of homeless people in Asheville. He said Council's acceptance of these grants would help aid in this problem.

Emily Clark; Route 1, Box 738; Candler, North Carolina; 28715; said in her opinion the more homeless shelters Asheville has the more homeless people they will have. She said these people should be put on a "farm" where they can work for their upkeep which would prove more effective in solving this problem.

Dale Roberts, 36 Edwin Place, a volunteer at the Hospitality House, said he feels there is strong community support for these facilities. He said Hospitality House also helps to get people off the street and rehabilitated.

A. **Motion authorizing the execution of an Emergency Shelter Grant Agreement on behalf of the Emergency Shelter of Eliada Homes, Inc.**

Mayor Bissette said this action authorizes the execution of a grant agreement with the N. C. Department of Natural Resources and Community Development for an Emergency Shelter Grants Program. The project will be subcontracted to the Emergency Family Shelter of Eliada Homes, Incorporated to provide shelter and support services for the homeless. The project involves $5,357 for building rehabilitation and $9,785 for operations/service activities.

Councilman Frank moved to authorize the execution of an Emergency Shelter Grant Agreement on behalf of the Emergency Shelter of Eliada Homes, Inc. contingent upon a satisfactory agreement being reached with Eliada Homes, Inc. This motion was seconded by Councilman Price and carried unanimously.

B. **Motion authorizing the execution of an Emergency Shelter Grant Agreement on behalf of the Hospitality House of Asheville, Inc.**

Mayor Bissette said this action authorizes the execution of a grant agreement with N. C. Department of Natural Resources and Community Development for an Emergency Shelter Grants Program. The project will be subcontracted to the Hospitality House to provide shelter and support services for the homeless. All of the grant funds in the amount of $4,668 will be used for operations/service activities.

Councilman Bratton moved to authorize the execution of an Emergency Shelter Grant Agreement on behalf of the Hospitality House of Asheville, Inc. contingent upon a satisfactory agreement being reached with Hospitality House of Asheville, Inc. This motion was seconded by Councilman Frank and carried unanimously.

C. **Motion authorizing the execution of an Emergency Shelter Grant Agreement on behalf of the Asheville-Buncombe Community Christian Ministry.**

Mayor Bissette said this action authorizes the execution of a grant agreement with N. C. Department of Natural Resources and Community Development for an Emergency Shelter Grants Program. The project will be subcontracted to the Asheville Buncombe Community Christian Ministry to provide shelter and support services for the homeless. The project involves $19,108 for building rehabilitation and $10,919 for operation/service activities.

Councilman Price moved to authorize the execution of an Emergency Shelter Grant Agreement on behalf of the Asheville-Buncombe Community Christian Ministry contingent upon a satisfactory agreement being reached with Asheville-Buncombe Community Christian Ministry. This motion was seconded by Councilman Martin and carried unanimously.

Vice-Mayor Michalove moved that the Housing Authority be requested to administer the Emergency Shelter Grants either as a subgrantee or administrator. This motion was seconded by Councilman Price and carried unanimously.

IV. NEW BUSINESS:

A. Resolution No. 88-1 - Resolution authorizing the execution of an easement for General Services Administration for the purpose of refencing and repaving a small portion of the Wall Street Alley by the former U. S. Post Office.

Mayor Bissette said General Services Administration has requested that an easement be granted to refence and repave a small part of the Wall Street alley by the former U. S. Post Office/Courthouse. This part of the Wall Street alley has for many years been paved and fenced in while being used as a parking area by GSA. The easement is necessary in order to justify spending Federal money on non-federal property, to repair or replace the paving and fence, which are both in poor condition.

By the use of a map, the City Manager reviewed the location of the requested easement.

Upon motion of Vice-Mayor Michalove, seconded by Councilman Frank, Resolution No. 88-1 was unanimously adopted.

Resolution Book No. 17 Page No. 58

OTHER BUSINESS:

CLAIMS - EDNA HULL (CIVIC CENTER) - KENNETH DACY (WATER)

The City Manager presented claims received from Edna Hull and Kenneth Dacy.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP - RIGHT OF REDRESS AND LOTTERY SALES

Ralph Bishop spoke to members of Council relative to his right to seek redress from Council and lottery sales in the City of Asheville.

ADJOURNMENT

Upon motion, the meeting adjourned at 4:55 p.m.

MAYOR

CITY CLERK

Tuesday - January 12, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell Martin, and Walter Boland; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Mayor Bissette.

APPROVAL OF MINUTES - JANUARY 5, 1988

Mayor Bissette announced the approval of the minutes of the January 5, 1988 meeting as submitted.

I. PROCLAMATIONS:

A. **Proclamation - Land of the Sky Chess Week - January 18 - 24, 1988**

Mayor Bissette read the proclamation and presented a copy to Wilder Wadford, Chairman of the Committee for the Chess Tournament and President of the Asheville Chess Club.

II. PUBLIC HEARINGS:

A. **Continuation of a public hearing relative to closing a portion of Syrlin Street requested by Ellen Goldstein.**

Mayor Bissette said a petition was received on July 17, 1987 from the property owner along a portion of Syrlin Street. The petition requested that a portion of Syrlin Street extending northward from the northern margin of Tax Lot 178 and Tax Lot 13-1/4 of Ward 9, Sheet 7, be closed as a public street right of way. This public hearing was on November 24, 1987 but was continued until January 5, 1988. At the January 5, 1988 meeting the hearing was continued until January 12, 1988.

B. **Continuation of a public hearing relative to closing a portion of Syrlin Street requested by G. Findley Reed Jr., Norman C. Bradford, Virginia S. Bradford and others.**

Mayor Bissette said a petition was received on November 16, 1987 from the property owners along a portion of Syrlin Street. The petition requested that a portion of

Syrlin Street between Tax Lots 178 and 13-1/4 of Ward 9, Sheet 7 or the Buncombe County Tax Maps, extending northward approximately 160 feet from the southern margin of said lots be closed as a public street right of way. At the January 5, 1988 meeting the hearing was continued until January 12, 1988.

It was the desire of Council to hold these two public hearings together since they are related issues.

Verl Emrick, Planning Director, said the two petitions received to close portions of Syrlin Street were generated by a proposed group development by Ellen Goldstein for four duplex apartments. He said the plan was reviewed by the Planning and Zoning Commission and presented to Council with a recommendation for approval with several modifications. He said the group development plan was subsequently withdrawn pending the resolution of the closing of a portion of Syrlin Street. He said the Public Works Department reviewed and proposed closings and has no problems with the closings.

Harold Bennett, Attorney representing Ellen Goldstein, presented a plat showing the properties in question. He said his client purchased the property about a year ago, which is zoned R-3 Residential District, for the purpose of constructing four duplex apartments. He said the development cannot legally be accessed from Long Street and that the complex cannot be built without entry and exit from Syrlin Street. He said General Statutes 160A-299 permits the closing of this portion of Syrlin Street since the closing will not be detrimental to the public interest or to individual property rights.

Mr. Bennett spoke in opposition to the closing of the portion of Syrlin Street requested by others stating that the closing of this portion of Syrlin Street would be extremely detrimental to Ellen Goldstein. He said if the entire portion of Syrlin Street is closed as requested the group development project would fail due to lack of access to public right-of-way. He said the proposed development would be a $600,000 investment by Ms. Goldstein.

Gary Swartz, 79 Edgewood Road, said he did not object to the closing of that portion of Syrlin Street adjacent to Ms. Goldstein's property but also requested that the extension of Syrlin Street requested to be closed by other residents be closed.

He said Syrlin Street is not a "real" street but is just on the tax maps. He said it is not used by pedestrians or vehicles. He said the residents have no objection to Ms. Goldstein developing her property for commercial use but the development if accessed from Syrlin Street would be destructive and harmful to the neighborhood. He said the residents are of the opinion that the developer could revise her plans so the project does not come through Syrlin Street. He said closing both portions of Syrlin Street, as requested, would allow the developer to develop her project as well as prohibit commercial encroachment into the residential neighborhood.

Norman and Virginia Bradford, 28 Lockley Avenue, spoke in support of the closing of the portions of Syrlin Street as requested. They spoke in opposition to a commercial development having access to Syrlin Street. They said the plans could be adapted not to use Syrlin Street.

Darrell Metcalf, 6 Long Street, also spoke in support of the closings.

Harold Bennett said in his opinion the residents are actually speaking in opposition to Ms. Goldsteins group development. He said the property is zoned R-3 Residential District which allows such a group development.

Upon inquiry of Council, Corporation Counsel Slawter said in his opinion the issues before Council were whether the closing of either portion of Syrlin Street would deny Ms. Goldstein or others reasonable access to their property and whether the closing would be detrimental to the public interest.

After a lengthy discussion relative to the status of accessing the proposed development from Long Street and the legality of closing Syrlin Street, Councilman Boland moved to continue the public hearings for one week, until January 19, 1988, without further advertisement, giving the Planning and Legal Staff an opportunity to meet with the developer to determine the alternatives to accessing the proposed project and to formulate an opinion on the closing of Syrlin Street. This motion was seconded by Vice-Mayor Michalove and carried unanimously.

III. OLD BUSINESS:

IV. NEW BUSINESS:

A. Request for lighting the ballfield at Deaverview Park.

Mayor Bissette said a request was received from Dorothy Arrowood of 126 Vance Crescent with reference to the possibility of lighting the ballfield at Deaverview Park in the spring of 1988. This request was forwarded to the Parks and Recreation Advisory Board. After considerable discussion the Board unanimously recommended that the ballfield at Deaverview Park be lighted in the spring of 1988. The Board suggested that this be accomplished by allocating $50,000 from funds allocated for the proposed Martin Luther King Drive/South Charlotte Street Park with the understanding that the $50,000 would be replaced into the Martin Luther King Drive/South Charlotte Street Park project during fiscal year 1988-89. It was noted that the funds to light Deaverview Park are included in the capital improvement program for 1988-89 and that this action will simply advance this project for one year.

Dorothy Arrowood, of 126 Vance Crescent, spoke in support of the lighting of the ballfield at Deaverview Park. She said she has presented letters and petitions to members of Council, on December 1, 1987, requesting the lighting at Deaverview Park. She requested that Council accept the recommendation of the Parks and Recreation Advisory Board.

Bill Costello, retiree from the Asheville Police Department, said he had worked with young people for many years and in his opinion the expense to the City for the lighting will be well spent to help the youth stay off the streets.

Ordinance No. 1670 - Budget Ordinance amendment appropriating Bee Tree Settlement Proceeds and earmarking $50,000 for Deaverview Park lighting.

Vice-Mayor Michalove moved to accept the recommendation of the Parks and Recreation Advisory Board and for the adoption of Ordinance No. 1670. This motion was seconded by Councilman Bratton.

On a roll call vote of 7-0, Ordinance No. 1670 passed on first and final reading.

Complete text of Ordinance No. 1670 will be found in Ordinance Book No. 11 at Page 224.

Resolution No. 88-2 - Resolution of support that the controversy concerning Champion International Corporation be resolved.

Vice-Mayor Michalove read the resolution.

Upon motion of Councilman Michalove, seconded by Councilman Bratton, Resolution No. 88-2 was unanimously adopted.

Complete text of Resolution No. 88-2 will be found in Resolution Book No. 17 at page 59.

Mayor Bissette said he would be attending the public hearing scheduled at the Asheville Civic Center on Thursday, January 14, 1988 to be held between 1 PM and 10 PM relative to Champion International Corporation and the Environmental Protection Agency.

B. Resolution No. 88-3 - Resolution authorizing the City Manager to execute on behalf of the City of Asheville an agreement and any amendments thereto with CH2M Hill, Southeast, Inc., for engineering services for a drainage study.

Mayor Bissette said the citizens of Asheville approved a bond issue for the purpose of improvements and rehabilitation to streets, sidewalks, and drainage within the City. The services of a consulting engineer are required to survey, inventory, evaluate, map, and prioritize the long range drainage needs for the City. An Evaluation/Selection Committee selected CH2M-Hill as the consultant for this project from over two hundred (200) solicitations.

The City Manager and Harold Huff, Director of Water and Sewer Services, outlined the details of the agreement.

Upon motion of Councilman Boland, seconded by Councilman Martin, Resolution No. 88-3 was unanimously adopted.

Resolution Book No. 17 Page No. 60

C. Resolution No. 88-4 - Resolution authorizing the Mayor to execute an agreement with Price Waterhouse for auditing services for the Fiscal Year ending June 30, 1988.

Mayor Bissette said N.C. Gen. Stat. sec. 159-34 requires that local governments of North Carolina submit an annual audit to the Local Government Commission. Price Waterhouse, current auditors of the City of Asheville, has submitted a proposal to perform auditing services for the fiscal year ending June 30, 1988.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 88-4 was unanimously adopted.

Mayor Bissette was excused from the meeting and turned the meeting over to Vice-Mayor Michalove.

D. **Ordinance No. 1671 - Budget Ordinance amendment to appropriate funds for the Emergency Shelter Grant Programs.**

Vice-Mayor Michalove said this amendment will appropriate $49,837 of grant funds from the Emergency Shelter Grant Program. The project will be subcontracted as follows: ABCCM Shelter $30,027; Eliada Home Shelter $15,142; Hospitality House Shelter $4,668.

Councilman Price moved for the adoption of Ordinance No. 1671. This motion was seconded by Councilman Boland.

On a roll call vote of 7-0, Ordinance No. 1671 passed on first and final reading.

Ordinance Book No. 11 Page No. 225

E. **Motion authorizing the City Manager to execute a Landlord's Consent in favor of Northern Telecom Finance Corporation in regard to a lease with U. S. Cellular for use of tower space at the White Fawn Reservoir.**

Corporation Counsel Slawter said a request was received from Steve Goldstein for execution by the City of a Landlord's Consent. The City entered into a lease with U. S. Cellular for use of tower space at the White Fawn Reservoir. This consent authorizes the assignment of that lease to a subsidiary partnership. The document also provides that Northern Telecom Finance Corporation will have a first lien on any equipment placed on the site by U. S. Cellular.

Councilman Price moved to authorize the City Manager to execute a Landlord's Consent in favor of Northern Telecom Finance Corporation in regard to a lease with U. S. Cellular for use of tower space at the White Fawn Reservoir. This motion was seconded by Councilman Frank and carried unanimously.

OTHER BUSINESS;

Resolution No. 88-5 - Resolution appointing members to the Asheville Downtown Commission (Councilman Boland and Councilman Bratton)

Vice-Mayor Michalove presented a resolution reappointing Councilman Boland and Councilman Bratton to the Asheville Downtown Commission for a term expiring December 5, 1989.

Upon motion of Councilman Price, seconded by Councilman Martin, Resolution No. 88-5 was unanimously adopted.

Resolution Book No. 17 Page No. 62

Resolution No. 88-6 - Resolution appointing member to the Asheville-Buncombe Crime Stoppers Committee (Councilman Norma Price)

Vice-Mayor Michalove presented a resolution reappointing Councilman Norma Price as a member to the Asheville-Buncombe Crime Stoppers Committee, term expiring June 30, 1990.

Upon motion of Councilman Frank, seconded by Councilman Boland, Resolution No. 88-6 was unanimously adopted.

Resolution Book No. 17 Page No. 63

Resolution No. 88-7 - Resolution appointing member to the Asheville-Buncombe Water Authority (Ralph D. Morris, Jr.)

Vice-Mayor Michalove presented a resolution reappointing Ralph D. Morris, Jr. as a member of the Asheville-Buncombe Water Authority for a term expiring December 31, 1990.

Mayor Bissette returned to the meeting.

Councilman Martin said he could not support the resolution because of Council's stated policy that an individual can not serve on a Board or Commission more than two (2) terms. He said Council members should adhere to this policy. He said he was not opposing the resolution because of Ralph Morris, but merely because of Council's stated policy on reappointments.

Councilman Price and Frank supported the resolution stating that Ralph Morris was instrumental in the establishment of the Authority and his expertise was needed on the Authority. They said Mr. Morris is a valuable member to the Authority and has the ability to handle their unique problems.

Councilman Boland and Mayor Bissette said they would support the resolution, however, they also had reservations about Council deviating from Council's stated policy on reappointments.

Upon motion of Councilman Frank, seconded by Councilman Boland, Resolution No. 88-7 was adopted on a voice vote of 6-1, with Councilman Martin voting "no".

LETTERS RECEIVED RELATIVE TO SNOW REMOVAL

Mayor Bissette said a number of letters and calls were received from individuals relative to the recent snow removal process. He said he felt the Public Works Department had done a very good job. He said the Public Works Department removes the snow on a priority basis. He said the City Manager would be responding to the letters received.

ANN CROSS - COMPLAINT RELATIVE TO WIRE IN STREET

Ann Cross of Woodland Road, complained about a wire falling down at 18 Orange Street that his hanging down, partly on the sidewalk and partly in the street. She said she had called the power, cable, and fire departments to come out and check the wire and to date, no one has been out to check it. She said the wire could be dangerous.

Mayor Bissette said the City Manager would have someone check the wire.

HELEN O'CONNER - PLANETARY COMMISSION - SUPPORT FOR 'PEACE POLE"

Helen O'Conner with the Planetary Commission requested Council's support to the erection of the "Peace Pole" on the City/County Plaza. She said they wish to install the pole during the Martin Luther King, Jr.'s celebration next week.

After discussion, Mayor Bissette instructed the City Manager to look into the Planetary Commission's request and determine if they can find an appropriate location for the "Peace Pole."

CLAIMS - KATHLEEN BALL (WATER) - LYNNETTE EASLEY (WATER)

The City Manager presented claims received from Kathleen Ball and Lynnette Easley.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

ADJOURNMENT

Upon motion of Councilman Price, seconded by Councilman Michalove, the meeting adjourned at 6:25 p.m.

MAYOR

William F. Merritt
CITY CLERK

Tuesday - January 19, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell Martin, and Walter Boland; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Frank.

APPROVAL OF MINUTES - JANUARY 12, 1988

Mayor Bissette announced the approval of the minutes of the January 12, 1988 meeting as submitted.

I. PROCLAMATIONS:

II. PUBLIC HEARINGS:

A. **Continuation of a public hearing relative to closing a portion of Syrlin Street requested by Ellen Goldstein.**

Mayor Bissette said a petition was received on July 17, 1987 from the property owner along a portion of Syrlin Street. The petition requested that a portion of Syrlin Street extending northward from the northern margin of Tax Lot 178 and Tax Lot 13-1/4 of Ward 9, Sheet 7, be closed as a public street right of way. This public hearing was on November 24, 1987 but was continued until January 5, 1988. At the January 5, 1988 meeting the hearing was continued until January 12, 1988. The public hearing was again continued until January 19, 1988.

B. **Continuation of a public hearing relative to closing a portion of Syrlin Street requested by G. Findley Reed Jr., Norman C. Bradford, Virginia S. Bradford and others.**

Mayor Bissette said a petition was received on November 16, 1987 from the property owners along a portion of Syrlin Street. The petition requested that a portion of Syrlin Street between Tax Lots 178 and 13-1/4 of Ward 9, Sheet 7 or the Buncombe County Tax Maps, extending northward approximately 160 feet from the southern margin of said lots be closed as a public street right of way.

At the January 5, 1988 meeting the hearing was continued until January 12, 1988. The public hearing was again continued until January 19, 1988.

It was the desire of Council to hold these two public hearings together since they are related issues.

Verl Emrick, Director of Planning, said he had met with Mr. Patton, Ms. Goldstein's developer, relative to access alternatives available in developing the property. He said access could be obtained from Long Street, Wildwood Avenue, or Syrlin Street. He said, however, if Ms. Goldstein subdivides the land instead of using the condominium/apartment approach in developing the land, she would need additional land for development. He said the approach of "dual permanent easements" could also be used in developing the land.

Piercy Carter, resident in the area, spoke in support of closing both sections of Syrlin Street. He said he would object to Council closing only the portion requested by Ms. Goldstein. He said he would also object to Syrlin Street being used as part of Ms. Goldstein's development since Syrlin Street is not presently used as a street.

Mayor Bissette noted that Council must follow the N. C. General Statutes in considering the closings. He said Council must determine, before closing the streets that it does not deny access to any property owner and that the closing would not be contrary to the public interest.

Norman Bradford, of Lockley Avenue, spoke in support of closing both sections of Syrlin Street. He also opposed using Syrlin Street as part of Ms. Goldstein's proposed development.

Findley Reed said the residents in the area are not opposed to Ms. Goldstein's request to close a portion of Syrlin Street. He said Ms. Goldstein's project should be channeled through Long Street. He said the property values on Syrlin Street would be threatened if the project is accessed on Syrlin Street.

Mr. Swartz of 79 Edgewood Road spoke in support of closing both sections of Syrlin Street. He said Syrlin Street is not used as a street but only for children playing. He said in his opinion the closing of both sections of Syrlin Street would not prevent Ms. Goldstein from using her property. He

said Ms. Goldstein's proposed project should be accessed from Long Street.

Upon inquiry of Ralph Bishop, Mayor Bissette said if Council closes Syrlin Street the adjoining property owners would own the portions of Syrlin Street closed.

Harold Bennett, Attorney for Ms. Goldstein, spoke in support of closing the portion of Syrlin Street requested by Ms. Goldstein. He spoke in opposition to closing the portion requested by other residents.

Upon inquiry of Councilman Bratton, Ms. Goldstein said at this time she did not have a definite set of plans for the property.

Mayor Bissette closed the public hearing relative to closing a portion of Syrlin Street requested by Ms. Goldstein at 4:48 p.m.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Councilman Price moved that action relative to Ms. Goldstein's request to close a portion of Syrlin Street be continued, without further advertisement, until April 19, 1988, giving Ms. Goldstein an opportunity to submit a group development plan to Planning and Zoning and Council. This motion was seconded by Councilman Boland and carried unanimously.

Mayor Bissette said it is Council's hope that Ms. Goldstein could submit a group development plan that would be satisfactory to Planning and Zoning, Council, and area residents.

John Walsh said in his opinion Council could act as an arbitrator in this issue.

Mayor Bissette then closed the public hearing relative to closing a portion of Syrlin Street requested by G. Findley Reed Jr., Norman C. Bradford, Virginia S. Bradford and others at 5:00 p.m.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Councilman Price said, due to an opinion rendered by the Corporation Counsel that the closing of this portion of Syrlin Street could perhaps deny access to a property owner, she would move that the request be denied. This

motion was seconded by Councilman Martin and carried unanimously.

III. OLD BUSINESS:

A. Staff report relative to Asheville Speedway and non-conforming uses.

Mayor Bissette said several weeks ago Council instructed the City Attorney and the Planning Division to provide a report relative to the Asheville Speedway and to address other types of activities that would be nonconforming pursuant to Section 30-3-3 of the Code of Ordinances.

The Corporation Counsel then gave a report to the City Council regarding the Asheville Speedway and nonconforming businesses that might be subject to the amortization provisions of Section 30-3-3 of the Code of Ordinances. He stated that Verl Emrick, Director of Planning and Zoning, would have further information regarding the nonconforming uses. With regard to the Speedway, he stated that he was in the process of compiling ordinances and other information from other cities regarding noise restrictions. He stated that he had been in contact with manufacturers of mufflers for racing automobiles and would be receiving further information about them.

The Corporation Counsel recommended that the City Council consider amendments to the Code of Ordinances as follows:

1. Amendment of the noise ordinance to delete the exemption for race tracks.

2. Either by amendment of the noise ordinance or by separate ordinance restrict the hours of operation of the Speedway and possibly other outdoor sporting events.

3. Assign police officers to regulate traffic during racing events.

Members of Council commended the Corporation Counsel for the report and giving Council several options to consider. They indicated that time is of essence in attempting to solve the problems associated with the race track since races are now being scheduled.

After discussion, Council scheduled a work session for February 9, 1988 at 1:00 p. m. in the Council

Chambers to discuss alternatives for the race track and other nonconforming uses. At that time staff could present draft ordinances amending the noise ordinance.

IV. NEW BUSINESS:

A. **Ordinance No. 1672 - Budget Ordinance Amendment appropriating Fair Housing Grant Assistance funds.**

Mayor Bissette said this amendment will appropriate $34,000 of HUD Fair Housing Assistance Program grant funds. The projects will be subcontracted with the Asheville-Buncombe Community Relations Council for staff support to the Fair Housing Commission.

Councilman Boland requested a status report from the Fair Housing Commission.

Councilman Martin moved for the adoption of Ordinance No. 1672. This motion was seconded by Vice-Mayor Michalove.

On a roll call vote of 7-0, Ordinance No. 1672 passed on first and final reading.

Ordinance Book No. 11 Page No. 226

B. **Ordinance No. 1673 - Budget Ordinance Amendment appropriating Community Development Block Grant Funds for Emergency Shelter Grant Program Administration.**

Mayor Bissette said this budget amendment will appropriate $5,000 of CDBG funds for administration of the Emergency Shelter Grant Program (ESGP). The City will contract with the Housing Authority to administer the ESGP on behalf of the City.

Vice-Mayor Michalove moved for the adoption of Ordinance No. 1673. This motion was seconded by Councilman Frank.

On a roll call vote of 7-0, Ordinance No. 1673 passed on first and final reading.

Ordinance Book No. 11 Page No. 227

C. **Resolution No. 88-8 - Resolution authorizing execution of an agreement with the Housing Authority to administer the Emergency Shelter Grant Program.**

Mayor Bissette said this agreement will authorize the Housing Authority to administer the Emergency Shelter Grant Program and to contract with ABCCM, Eliada Home, and Hospitality House to operate the shelters.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 88-8 was unanimously adopted.

Resolution Book No. 17 Page No. 65

D. Resolution No. 88-9 - Resolution authorizing the City Manager to execute agreement with Asheville Area Chamber of Commerce.

Mayor Bissette said this agreement with the Chamber of Commerce is for Tourism and Promotion Services and Small Business Promotion.

Upon motion of Councilman Bratton, seconded by Vice-Mayor Michalove, Resolution No. 88-9 was unanimously adopted.

Resolution Book No. 17 Page No. 66

V. CONSENT:

A. Resolution No. 88-10 - Resolution recognizing years of service for retiring Asheville Police Officers by presentation of the badge and sidearm carried during their career.

Mayor Bissette said this resolution will authorize that retiring police officers be awarded their badge and service sidearm upon retirement.

Resolution Book No. 17 Page No. 67

B. Resolution No. 88-11 - Resolution appointing members to the Board of Directors of the Victoria of Asheville, Inc.

Mayor Bissette said this resolution will reappoint Dr. John P. Holt and Dorothy C. Maitland and will appoint Darlene Wilkins to the Board of Directors of the Victoria of Asheville, Inc., terms expiring November 29, 1988, or until their successors are duly appointed and qualified.

Resolution Book No. 17 Page No. 68

C. Resolution No. 88-12 - Resolution appointing member to the Alcoholic Beverage Control Board.

Mayor Bissette said this resolution will appoint Warren G. Cabaniss as a member of the Board of Alcoholic Control, term expiring November 13, 1990.

Resolution Book No. 17 Page No. 69

Upon motion of Councilman Frank, seconded by Vice-Mayor Michalove the consent agenda was unanimously approved.

OTHER BUSINESS:

Motion - J. W. Byers - Chairman of Alcoholic Beverage Control Board

Councilman Boland moved to appoint J. W. Byers as Chairman of the Alcoholic Beverage Control Board until his term expires, November 13, 1989, or until his successor is duly appointed and qualified.

Resolution No. 88-13 - Resolution appointing members to the Asheville-Buncombe Community Relations Council

Mayor Bissette said this resolution will appoint Hazel Turner and Linda McDaniel as members of the Asheville-Buncombe Community Relations Council for three year terms, terms expiring December 31, 1990.

Upon motion of Councilman Price, seconded by Councilman Boland, Resolution No. 88-13 was unanimously adopted.

Resolution Book No. 17 Page No. 70

CLAIMS - MRS. ROBERT GADDY (SEWER) - TED LETMAN (STREETS) - BOBBY BROWN (STREETS) - KARNE STATON (STREETS) - WALLY CULBERTSON (STREETS) - HOWARD MARTENS (STREETS) - CHARLES CREASMAN (STREETS) - CECIL HARRISON (FIRE) - GEORGE ZOURZOUKIS (STREETS)

The City Manager presented claims received from Mrs. Robert Gaddy, Ted Letman, Bobby Brown, Karen Staton, Wally Culbertson, Howard Martens, Charles Creasman, Cecil Harrison, George Zourzoukis.

ADJOURNMENT:

Upon motion of Councilman Price, seconded by Councilman Frank, the meeting adjourned at 5:45 p.m.

MAYOR

CITY CLERK

Tuesday - January 26, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell Martin, and Walter Boland; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Bratton.

APPROVAL OF MINUTES OF JANUARY 19, 1988 MEETING

Mayor Bissette announced the approval of the minutes of the January 19, 1988 meeting as submitted.

I. PROCLAMATIONS:

II. PUBLIC HEARINGS:

A. Public hearing relative to closing an unnamed alley parallel to Lexington Avenue and Biltmore Avenue.

Resolution No. 88 -14 - Resolution to close an unnamed alley parallel to Lexington Avenue and Biltmore Avenue in the City of Asheville, North Carolina

Mayor Bissette said a petition was received from Linda R. Baker, Clarence E. Parker, and J. A. Sronce to close the unnamed alley parallel to Lexington Avenue and Biltmore Avenue

Mayor Bissette opened the public hearing 4:24 p.m.

The City Manager reviewed the location of the unnamed alley for members of Council.

There being no discussion, Mayor Bissette closed the public hearing at 4:26 p.m.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it will not be read in its entirety.

Upon motion of Councilman Martin, seconded by Vice-Mayor Michalove, Resolution No. 88-14 was unanimously adopted.

Resolution Book No. 17 Page No. 71-72

III. OLD BUSINESS:

IV. NEW BUSINESS:

A. Ordinance No. 1674 - Ordinance amending Ordinance No. 1650, previously adopted by the City Council of the City of Asheville, providing for a disability review board for members of the Asheville Policemen's Pension and Disability Fund.

Mayor Bissette said this ordinance will include firefighters in the Disability Review Board process to assure the same supplement and eligibility requirements as for police officers previously covered by the old local plan entitled "Asheville Policemen's and Firemen's Pension and Disability Fund."

The City Manager said for several months supplemental and eligibility of benefits have been discussed with firefighters. He said the entire area has been explained to the firefighters.

Mayor Bissette explained the composition of the Disability Review Board.

Councilman Boland moved for the adoption of Ordinance No. 1674. This motion was seconded by Councilman Frank.

On a roll call vote of 7-0, Ordinance No. 1674 passed on first reading.

Councilman Price moved to suspend the rules and proceed to the second reading of Ordinance No. 1674. This motion was seconded by Vice-Mayor Michalove and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1674 passed on second reading.

Councilman Price moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1674. This motion was seconded by Vice-Mayor Michalove and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1674 passed on third and final reading.

Ordinance Book No. 11 Page No.

B. Resolution No. 88 -15 -Resolution guaranteeing a floor of benefits to former members of the Asheville Firemen's Pension and Disability Fund

Mayor Bissette said the resolution will provide pension subsidies, to individuals who retire under the in-line-of-duty disability retirement, equal to the difference in the Local Government Employees Retirement System benefit and the benefit the employees would have received if they remained in any of the City operated pension funds for employees who retire at 60 years of age or older.

Dave Anders, with the Asheville Fire Department, said the firefighters who have retired since 1979, who qualify for in-line-of-duty disability retirement benefits should be included in this provision and should be paid retroactive to the date they retired. He said the firefighters voted to go under the Local Government Employees' Retirement System with the understanding that they would not lose any of their past benefits they would have received as members of the former Asheville Firemen's Pension and Disability Fund.

Charles Penny, Assistant City Manager, said if Council chose to do this it would cost approximately $160,000.

After discussion, Mayor Bissette said members of Council had looked at all aspects of these provisions and are concerned with the costs involved, particularly retroactive benefits.

Members of Council requested that the staff look into Dave Anders request and furnish Council with additional information such as the type of disability retirement received by retirees since 1979 along with administrative alternatives.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 88-15 was unanimously adopted.

Resolution Book No. 17 Page No. 73-74

C. Resolution No. 88 -16 - Resolution authorizing the Mayor to execute a Municipal Agreement with the N. C. Department of Transportation for improvements to McDowell Street (US 25).

Mayor Bissette said in the current projects included in the Street & Sidewalk Bond program, new curb and sidewalk is scheduled for McDowell Street. McDowell Street is a State System street and the Municipal Agreement will allow the City to place new curb in areas where there is currently no sidewalk, and the North Carolina Department of Transportation will reimburse the City up to $20,000 for the cost of placing the curb. Engineering estimates place the cost of replacing the curb at $18,000; therefore, the $20,000 maximum should totally cover the cost of replacing the curb.

Upon motion of Vice-Mayor Michalove, seconded by Councilman Price, Resolution No. 88-16 was unanimously adopted.

Resolution Book No. 17 Page No. 75

D. Approval of sale of disposal parcel 118/165 in the East Riverside Redevelopment Project

Mayor Bissette said the Housing Authority has tentatively accepted the following bid for disposal parcel 118/165 in the East Riverside Redevelopment Project:

Reuse	Price	Bid	Redeveloper
O-I Hospice	$53,000	$53,000	Mountain Area

The development will consist of a Hospice inpatient facility with six beds and office space for the Hospice organization comprising 5,600 sq. ft. of finished area. An additional 4,000 sq. ft. of roughed in area will be included for future development. The estimated cost is $458,952.00.

Vice-Mayor Michalove moved to approve the sale of Disposal Parcel 118/165 as recommended by the Housing Authority. This motion was seconded by Councilman Price and carried unanimously.

V. CONSENT:

A. Resolution No. 88-17 - Resolution authorizing the City Manager of the City of Asheville to sign a commitment of site facility use for the nutrition program for older Americans at certain Recreation Centers.

SUMMARY: The Asheville Parks and Recreation Advisory Board has recommended that this program should be continued during the fiscal year of July 1, 1988 through June 30, 1980.

B. **Approval of bids for annual contract for bituminous concrete materials.**

SUMMARY: Recommendation for award for annual contract for bituminous concrete materials (asphalt) to Asheville Division, APAC - Carolina, Inc. in the amount of $162,925.00.

C. **Schedule public hearing relative to Westgate Shopping Center Expansion for February 16, 1988.**

SUMMARY: The Asheville Planning and Zoning Commission at a meeting on January 13, 1988, reviewed and approved the site plan of the Westgate Shopping Center Expansion subject to the following conditions:

1) Proper dedication of Cliff Street;

2) Provision of minimum 6' wide planted buffer on the west side of Cliff Street between Cliff Street and the parking area and that planted islands a minimum of 6' wide be installed on the east side of Cliff Street on approximately 120' centers.

3) Compliance with sign ordinance and primary sign be a maximum width of 30"for each post;

4) Inclusion of right-of-way trees on Patton Avenue; and

5) Compliance with Erosion Control Ordinance.

D. **Schedule public hearing relative to Carolebrook Apartments for February 16, 1988.**

SUMMARY: The Asheville Planning and Zoning Commission at a meeting on January 13, 1988, reviewed and approved the site plan of Carolebrook Apartments subject to the following conditions:

1) Compliance with Sedimentation and Erosion Control;

2) A formal resolution of the Hendricks Heights driveway matter;

3) The City of Asheville's Traffic Division looking at doing whatever they can on the right-of-way currently held to increase the sight distance down Middlebrook Road (provide sight triangle to NCDOT standards);.

4) The developer providing some additional landscaping at the dumpster site to more adequately screen the adjacent residential structure across the street.

5) Developer provide bus shelter in close proximity to Middlebrook Road;

6) Developer endeavor to protect trees and vegetation currently shown on landscaping plan during formulation of formal plans and since plans are schematic and preliminary that final plans be submitted for staff review; and

7) Staff review of final design plans for sign.

Upon motion of Councilman Boland, seconded by Vice-Mayor Michalove, the consent agenda was unanimously approved.

OTHER BUSINESS:

Resolution No. 88-18 - Resolution authorizing the City Manager to dispose of personal property by private sale

The City Manager said this resolution will authorize the disposal of certain personal property within the old Plaza Theatre building by private negotiation and sale prior to the scheduled demolition of the old Plaza Theatre building.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 88-18 was unanimously adopted.

Resolution Book No. 17 Page No. 77

CITY COUNCIL ANNUAL RETREAT - JANUARY 29, 30, 31, 1988

Mayor Bissette announced that members of Council would be having their annual retreat at Lake Junaluska on January 29, 30, and 31, 1988.

INTERGOVERNMENTAL SERVICES COMMITTEE MEETING - FEBRUARY 2, 1988

Councilman Frank announced that the Intergovernmental Services Committee would be meeting on Tuesday, February 2, 1988 at 12:30 p.m.

CLAIMS - ARNOLD SMITH (WATER) - PETER M. JONES (WATER) - CAIRN BALLARD (CIVIC CENTER) - RUBY JOHNSON (SANITATION)

The City Manager presented claims received from Arnold Smith, Peter M. Jones, Cairn Ballard, and Ruby Johnson.

ADJOURNMENT:

Upon motion, the meeting adjourned at 5:20 p.m.

MAYOR

William F. Wolcott
CITY CLERK

Tuesday - February 2, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell Martin, and Walter Boland; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Councilman Boland.

APPROVAL OF MINUTES - JANUARY 26, 1988 MEETING

Mayor Bissette announced the approval of the minutes of the January 26, 1988 meeting as submitted.

I. PROCLAMATIONS:

A. Proclamation - "National Salute to Hospitalized Veterans Week" - February 8 - 14, 1988

Mayor Bissette read the proclamation and presented a copy to James Fox from the VA Hospital.

II. PUBLIC HEARINGS:

None

III. OLD BUSINESS:

None

IV. NEW BUSINESS:

A. Resolution No. 88-19 - Resolution authorizing the City Manager to execute on behalf of the City of Asheville an agreement and any amendments thereto with Woodard and Roberts Architects for Architectural Services for the construction of a fire station.

Mayor Bissette said the City needs to relocate an existing fire station facility to improve its response capabilities in serving the newly annexed areas. The services of an architectural consultant will be required. The evaluation/selection committee has recommended the acceptance of Woodard and Roberts Architects.

The City Manager said the contract amount would not exceed $25,000 and construction cost for the project is anticipated at $250,000.

Ralph Bishop questioned why Council always contracts the services of an architectural consultant. He suggested that the City hire a full time architect.

Upon motion of Councilman Bratton, seconded by Councilman Frank, Resolution No. 88-19 was unanimously adopted.

Resolution Book No. 17 Page No. 78

B. Ordinance No. 1675 - Budget Ordinance amendment to appropriate ARC funds for Champion Sewer Line.

Mayor Bissette said the City has received the Letter of Credit for $175,000 of Appalachian Regional Commission funds for the Champion Sewer/Siphon project. This ordinance will appropriate the funds into the budget.

Councilman Boland moved for the adoption of Ordinance No. 1675. This motion was seconded by Vice-Mayor Michalove.

On a roll call vote of 7-0, Ordinance No. 1675 passed on first and final reading.

Ordinance Book No. 11 Page No. 231

V. CONSENT:

A. Resolution No. 88-20 - Resolution authorizing the City Manager of the City of Asheville to execute a contractual agreement with RAM Communication Consultants for the purpose of reviewing the City's two-way radio communication system.

Mayor Bissette said funds were approved in the 1987-88 fiscal budget for the purpose of paying a consultant to review existing two-way radio systems operated by the City of Asheville. RAM Communications has provided the City with a responsible proposal for such consulting services, at a cost below that which has previously been budgeted. This resolution will authorize a contractual agreement with RAM Communications.

Resolution Book No. 17 Page No. 79

B. Resolution No. 88 -21 -Resolution authorizing the City Manager to execute an agreement with Buckeye Construction Company, Inc. for the construction of the Cub Road Sanitary Sewer Improvements.

Mayor Bissette said this project was classified as one of the Priority Two Improvements as part of the City of Asheville Sewer Master Plan as prepared in May, 1985. This project involves the installation of approximately 1,795 Linear Feet of sanitary sewer, 915 Linear Feet of relocated waterline and all associated appurtenances on Cub Road. Plans and specifications were prepared by the Division of Engineering. Bids were opened on January 7, 1988 and the lowest responsible bidder was Buckeye Construction Company, Inc. in the amount of $108,846.00. It is recommended that the City Manager be authorized to execute an agreement with Buckeye Construction Company, Inc.

Resolution Book No. 17 Page No. 80

C. Resolution No. 88-22 - Resolution appointing members to the Fair Housing Commission.

Mayor Bissette said this resolution will appoint Hazel Turner and Glenda Burgin as members of the Fair Housing Commission.

Resolution Book No. 17 Page No. 81

D. Resolution No. 88-23 - Resolution appointing member to the Metropolitan Sewerage District Board.

Mayor Bissette said this resolution will reappoint Charles Dyson as a member of the Metropolitan Sewerage District Board

Resolution Book No. 17 Page No. 82

Upon motion of Councilman Frank, seconded by Vice-Mayor Michalove, the consent agenda was unanimously approved.

OTHER BUSINESS:

RESOLUTION NO. 88-24 - RESOLUTION OF SUPPORT FOR THE EXPANSION OF THE ASHEVILLE REGIONAL AIRPORT

Mayor Bissette read the resolution which stated that the City Council expresses its support for the expansion of the Asheville Regional Airport and the issuance of the $8 million bond issue by Buncombe County which is necessary for that expansion.

Councilman Frank moved for the adoption of the resolution. This motion was seconded by Councilman Price.

After discussion relative to the language contained in the resolution Councilman Frank moved that Council go into executive session to discuss legal matters. This motion was seconded by Councilman Price and carried unanimously.

Vice-Mayor Michalove moved to amend the resolution to include the following language: That the Council expresses its willingness and eagerness to work with the County to bring about the following amendments to the Airport Agreement: 1) To provide that the agreement and lease not be terminated so long as any outstanding obligation remains owed under the eight million dollar ($8,000,000) bond issue; and 2) To provide that in the event that the agreement and/or lease should be terminated, the City would assume all obligations remaining owed under the eight million dollar ($8,000,000) bond issue. This motion was seconded by Councilman Price and carried unanimously.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 88-24, as amended was unanimously adopted.

Resolution Book No. 17 Page No. 83

CLAIMS - MRS. C. G. WAHLER (WATER) - MRS. ROBERT SCHWARTZ JR. (WATER) - LINDA BUCKNER (STREETS) - DAVID ADAMS (PARKS)

The City Manager presented claims received from Mrs. C. G. Wahler, Mrs. Robert Schwartz Jr., Linda Buckner, and David Adams.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

ADJOURNMENT:

Upon motion, the meeting adjourned at 5:25 p.m.

MAYOR

CITY CLERK

Tuesday - February 9, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, and Walter Boland; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Russell Martin (attending School for Newly Elected Councilmen at the Institute of Government)

INVOCATION

The invocation was given by Councilman Price.

APPROVAL OF MINUTES - FEBRUARY 2, 1988

Mayor Bissette announced the approval of the minutes of the February 2, 1988 meeting as submitted.

I. PROCLAMATIONS:

A. Resolution No. 88-25 - Resolution commending the Asheville High School Marine Corps Junior Reserve Officer Training Corp (MCJROTC) Unit for being selected as the number one unit in the nation for the school year 1986-87.

Mayor Bissette read the resolution commending the Asheville High School Marine Corps Junior Reserve Office Training Corp (MCJROTC) Unit for being selected as the number one unit in the nation for the school year 1986-87.

Upon motion of Councilman Price, seconded by Vice-Mayor Michalove, Resolution No. 88-25 was unanimously adopted.

Mayor Bissette presented the resolution to Colonel Alfred I. Thomas, USMC (Ret.), Senior Marine Instructor, with Asheville High School.

Resolution Book No. 17 Page No. 84

II. PUBLIC HEARINGS:

III. OLD BUSINESS:

IV. NEW BUSINESS:

A. **Approval of bid for one new offset press for the City's Print Shop.**

Mayor Bissette said the staff has made a recommendation for award of one new offset press for the City's Press Shop less trade-in for the City's old "Multigraphics" model 1250 press to the low bidder, Multigraphics, Division of AM International, Inc., Columbia, South Carolina, in the net bid amount of $23,095.00.

Councilman Boland moved to accept the low bid of Multigraphics, Division of AM International, Inc. for one offset press less a trade-in, in the net bid amount of $23,095.00. This motion was seconded by Councilman Price and carried unanimously.

B. **Resolution No. 88-26 - Resolution authorizing the City Manager to execute on behalf of the City of Asheville an agreement and any amendments thereto with Sutton-Kennerly and Associates for engineering services for the re-roofing of the Asheville Civic Center Auditorium and Lobby, Inspect the Lightning Protection Systems and to study the H.V.A.C. for the Auditorium.**

Mayor Bissette said the City of Asheville needs to replace the roof on the Auditorium and Lobby portions of the Civic Center, evaluate the lightning protection and study the H.V.A.C. system. The services of an engineering consultant will be required for the design, construction and contract administration for the project. The firm of Sutton-Kennerly & Associates provided the engineering services several years ago for the roof replacement of the Arena portion and are familiar with the needs of the building. This resolution will authorize an agreement with Sutton-Kennerly.

Upon motion of Councilman Frank, seconded by Vice-Mayor Michalove, Resolution No. 88-26 was unanimously adopted.

Resolution Book No. 17 Page No. 85

C. **Resolution No. 88-27 - Resolution authorizing the City Manager to execute on behalf of the City of Asheville an agreement and any amendments within the budgeted amount with Black and Veatch, P. A. for engineering services related to annexation sewer improvements in areas west, south, and Haw Creek and Oteen.**

Mayor Bissette said solicitations were made for an engineering consultant to provide consultant services for sewer improvements in annexation areas West, South, and Haw Creek and Oteen. Thirteen engineering firms

responded and submitted a proposal to our invitation. As stated in the solicitation, the proposal was to have (1) letter of interest, (2) project understanding statement, (3) schedule, (4) project personnel, (5) experience. The following is the rating of the three finalists. 1. Black and Veatch ; 2. CH2M Hill; 3. Jordon, Jones & Goulding. The three finalists were interviewed and a contract was negotiated per the adopted policy, with the firm receiving the highest ranking, Black and Veatch.

Upon motion of Councilman Bratton, seconded by Councilman Price, Resolution No. 88-27 was unanimously adopted.

Resolution Book No. 17 Page No. 86

OTHER BUSINESS:

Presentation on Economic Development Partnership

The City Manager said a joint presentation on Economic Development Partnership would be given to City Council, County Commissioners, and the Executive Board of Chamber of Commerce on Tuesday, February 16, 1988 at 2:00 p. m. at the Pre-Council Work Session.

Bill Hobson - Request relative to sewer services - Cogswood Road

Bill Hobson, Hobson Construction Company, appeared before Council stating that he and Mr. Neville had purchased land on Cogswood Road to build two homes. He said the sewer map had indicated that sewer service would be available, however, when he applied for a sewer connection he was told by the Water and Sewer Department that sewer lines would not be extended to that area. He requested that Council look into the matter.

Council instructed the City Manager to look into Mr. Hobson's request.

Claims - Sumner and Foster (Sewer) - J. G. Adams, Jr. (Sewer) - Jimmy Messer (Streets) - Lois Gaddy (Streets) - Mary Sullivan (Water)

The City Manager presented claims received from Sumner and Foster, J. G. Adams, Jr., Jimmy Messer, Lois Gaddy, and Mary Sullivan.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

Lawsuits - Granville Roger Penley v. Robert George Lopez v. City of Asheville (Automobile Accident) - Metromont Materials Corp. v.

Blosam Contractors, Inc., et als (Lien perfection; City named a party since it has Deed of Trust)

The City Manager said the city was served with lawsuits involving Granville Roger Penley v. Robert George Lopez v. City of Asheville relative to an automobile accident and Metromont Materials Corp. v. Blosam Contractors, Inc., et als relative to a lien perfection in which the City is named a party since it has a Deed of Trust.

Adjournment

Upon motion of Councilman Boland, seconded by Councilman Price, the meeting adjourned at 5:00 p.m.

MAYOR

CITY CLERK

Tuesday - February 16, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell Martin, and Walter Boland; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Martin.

Approval of minutes of February 9, 1988 meeting.

Mayor Bissette announced the approval of the minutes of the February 9, 1988 meeting as submitted.

I. PROCLAMATIONS:

A. Proclamation - "Big Brothers and Sisters Appreciation Week" - February 21 - 27, 1988.

Mayor Bissette proclaimed February 21 - 27, 1988 as "Big Brothers and Sisters Appreciation Week." He said a copy would be forwarded to Steve Kirkland with the Association.

II. PUBLIC HEARINGS:

A. Public hearing relative to Westgate Shopping Center Expansion.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting on January 13, 1988, reviewed and approved the site plan of the Westgate Shopping Center Expansion subject to the following conditions: 1) Proper dedication of Cliff Street; 2) Provision of minimum 6' wide planted buffer on the west side of Cliff Street between Cliff Street and the parking area and that planted islands a minimum of 6' wide be installed on the east side of Cliff Street on approximately 120' centers. 3) Compliance with sign ordinance and primary sign be a maximum width of 30" for each post; 4) Inclusion of right-of-way trees on Patton Avenue; and 5) Compliance with Erosion Control Ordinance.

Mayor Bissette opened the public hearing at 4:17 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said one of the conditions of the Planning and Zoning Commission is the proper dedication of Cliff Street. He said it is his understanding that an agreement has not been reached among the property owners for the proper dedication of Cliff Street. He said Council may want to consider continuing the public hearing until an agreement is reached.

Jack Stevens, Attorney for George Coggins, property owner, said Mr. Coggins does not want to delay the developer of the project, however an agreement has not been reached among the different owners of property surrounding Cliff Street and a proper dedication can not take place until all parties agree. He said it is Mr. Coggins intention to reach an agreement in order that dedication can take place as soon as possible.

Sy Stanley, Property Manager for Westgate Corporation requested that Council consider the approval of the project contingent upon the dedication being resolved.

The architect for the project discussed the traffic flow pattern proposed for the new development.

After discussion, Councilman Price moved to continue the public hearing for one week without further advertisement. This motion was seconded by Councilman Martin and carried unanimously.

B. **Public hearing relative to Carolebrook Apartments.**

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting on January 13, 1988, reviewed and approved the site plan of Carolebrook Apartments subject to the following conditions: 1) Compliance with Sedimentation and Erosion Control; 2) A formal resolution of the Hendricks Heights driveway matter; 3) The City of Asheville's Traffic Division looking at doing whatever they can on the right-of-way currently held to increase the sight distance down Middlebrook Road (provide sight triangle to NCDOT standards); 4) The developer providing some additional landscaping at the dumpster site to more adequately screen the adjacent residential structure across the street. 5)

Developer provide bus shelter in close proximity to Middlebrook Road; 6) Developer endeavor to protect trees and vegetation currently shown on landscaping plan during formulation of formal plans and since plans are schematic and preliminary that final plans be submitted for staff review; and 7) Staff review of final design plans for sign.

Mayor Bissette opened the public hearing at 4:30 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the project would be constructed at the intersection of Old Haw Creek Road and Middlebrook Road. He said the complex will occupy about 16 acres and consist of 200 units in 10 buildings. He said the property is zoned R-3 Residential District and meets the density requirements of the Zoning Ordinance. He said the parking requirements will be met with the developer providing 400 parking spaces.

The architect for the project detailed the design, landscaping, and buffering proposed for the project. He said all requirements for erosion and sedimentation would be complied with and the developer would be providing a bus shelter within the complex. He said they would be using a "packer type system" rather than dumpsters.

Upon inquiry of Vice-Mayor Michalove, the developer said the project is ready to go as far as financing is concerned.

Mr. Emrick said for some time now the residents in the area have been concerned about the problems at the intersection of Old Haw Creek Road and Middlebrook and this issue was discussed at the Planning and Zoning Commission meeting. He said the City has previously purchased right-of-way to improve this intersection and the estimated cost for improvements at the intersection is $52,000. He said it was indicated at the Planning and Zoning Commission meeting that the developer would be willing to fund the improvements to the intersection up to 50 percent (50%) of the cost.

Mayor Bissette closed the public hearing at 4:50 p.m.

Councilman Price moved to approve the site plan of the Carolebrook Apartments subject to the conditions outlined by the Planning and Zoning Commission and further that the City and the developer jointly fund improvements to Old Haw Creek Road and Middlebrook on a 50/50 basis. This motion was seconded by Vice-Mayor Michalove and carried unanimously.

III. OLD BUSINESS:

IV. NEW BUSINESS:

A. Resolution No. 88-28 - Resolution authorizing the City Manager to execute all necessary easement agreements with private property owners for the purposes of constructing and/or maintaining sanitary and storm sewer systems.

Mayor Bissette said this resolution will give the City Manager authority to execute easements with private property owners for the purpose of maintaining, repairing, or replacing the sanitary and storm sewer systems of the City of Asheville.

Upon motion of Councilman Boland, seconded by Councilman Bratton, Resolution No. 88-28 was unanimously adopted.

Resolution Book No. 17 Page No. 87

B. Resolution No. 88-29 - Resolution authorizing the City Manager to execute an agreement between the City of Asheville and Pappas Telecasting of the Carolinas, Inc., a Nevada Corporation.

Mayor Bissette said Pappas Telecasting of the Carolinas, Inc. and the City have previously entered into an agreement for the purpose of leasing tower space at the White Fawn Reservoir site to WHNS-TV. Pappas has requested that they be allowed to continue operating at the White Fawn site for an additional period of time, and, further, to expand their usage of City facilities to eventually moving their equipment currently located at White Fawn Reservoir to the Governor's Western Residence site.

The City Manager explained the lease payments involved with the agreement between the City of Asheville and Pappas Telecasting of the Carolinas, Inc.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 88-29 was unanimously adopted.

Resolution Book No. 17 Page No. 88

V. CONSENT:

A. Resolution No. 88-30 - Resolution of intent to close the twenty (20) foot public street or alley described in Deed Book 781, at page 227, Buncombe County Registry, and calling a public hearing for March 22, 1988.

SUMMARY: Christ Fellowship Church, owners of Tax Lots 247 and 11, Sheet 14, Ward 5, adjoining a twenty (20) foot street or public alley, filed a written petition and request with the City Council that the street or public alley be permanently closed to public use.

Resolution Book No. 17 Page No. 89-90

B. Scheduling of public hearing relative to rezoning property located at 11 State Street for March 8, 1988.

SUMMARY: The Asheville Planning and Zoning Commission at a meeting held January 13, 1988, considered the petition of Mr. John White that Ward 5, Sheet 11, Lot 72, be rezoned from R-3 Residential District to CS Commercial Service District. The property is a vacant lot located at 11 State Street. After review and discussion, the Commission voted to recommend that the petition be denied and that the property remain as it is now zoned. The petitioner has appealed the recommendation of the Planning and Zoning Commission and requested that a public hearing be scheduled relative to the rezoning.

C. Scheduling of public hearing relative to West Terrace Center for March 8, 1988.

SUMMARY: The Asheville Planning and Zoning Commission at a meeting on February 3, 1988, reviewed and approved the site plan of West Terrace Center, Phase II, subject to the following conditions:

1) Compliance with Sedimentation and Erosion Control Ordinance;

2) Submission of utility letters from Water and Sewer Department and MSD;

3) Clarify if streets are public or private in order to determine need to close streets;

4) Clarification of 20' buffer on eastern property line to meet city standards; and

5) Submission of sign package in accordance with Zoning Ordinance.

Upon motion of Councilman Frank, seconded by Councilman Martin, the consent agenda was unanimously approved.

OTHER BUSINESS:

CLAIMS - GARY CALDWELL (WATER) - KARA HAGAN (WATER) - MILLIS HAMILTON (FIRE) - KENNETH HENSLEY (WATER) - METROPOLITAN SEWERAGE DISTRICT (WATER) - ALFRED HAMMOND (WATER) - JULIE KICA (WATER)

The City Manager presented claims received from Gary Caldwell, Kara Hagan, Millis Hamilton, Kenneth Hensley, Metropolitan Sewerage District, Alfred Hammond, and Julie Kica.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

LAWSUIT - ROBERT GEORGE LOPEZ V. JERRY WARNER SNOWDEN VS. THE CITY OF ASHEVILLE (AUTOMOBILE ACCIDENT)

The City Manager said the city was served with a lawsuit on February 9, 1988 relative to Robert George Lopez v. Jerry Warner Snowden vs. the City of Asheville regarding an automobile accident.

Mayor Bissette referred the lawsuit to the Corporation Counsel for investigation and recommendation.

REPORT OF SIGN COMMISSION

Mayor Bissette said a report was given during the Pre-Council work session from the Chairman and Vice-Chairman of the Asheville Sign Commission. He said the Sign Commission is moving ahead on the review of the sign ordinance. He said the City Manager would also be giving a report on sign enforcement in the near future.

RECOMMENDATION FOR DOWNTOWN PARKING GARAGE RATES

Mayor Bissette said during the Pre-Council work session the Downtown Commission presented members of Council with recommendations for parking garage rates in the downtown area.

LUNCHEON FOR VOLUNTEERS THAT SERVE ON BOARDS AND COMMISSIONS

Mayor Bissette said an appreciation luncheon is scheduled for March 1, 1988 for volunteers who serve on various boards and commissions.

RALPH BISHOP - LOTTERY SALES - RIGHT TO SEEK REDRESS

Ralph Bishop again spoke to members of Council relative to his right to seek redress in the Council meetings and the lottery sales in the City of Asheville.

ADJOURNMENT:

Upon motion, the meeting adjourned at 5:15 p.m.

MAYOR

CITY CLERK

Tuesday - February 23, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Norma T. Price, Wilhelmina Bratton, Russell Martin, and Walter Boland; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Mary Lloyd Frank

INVOCATION

The invocation was given by Mayor Bissette.

APPROVAL OF MINUTES - FEBRUARY 16, 1988

Mayor Bissette announced the approval of the minutes of the February 16, 1988 meeting as submitted.

I. PROCLAMATIONS:

II. PUBLIC HEARINGS:

A. Continuation of public hearing relative to Westgate Shopping Center.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting on January 13, 1988, reviewed and approved the site plan of the Westgate Shopping Center Expansion subject to the following conditions:

(1) Proper dedication of Cliff Street;
(2) Provision of minimum 6' wide planted buffer on the west side of Cliff Street between Cliff Street and the parking area and that planted islands a minimum of 6' wide be installed on the east side of Cliff Street on approximately 120' centers. (3) Compliance with sign ordinance and primary sign be a maximum width of 30" for each post; (4) Inclusion of right-of-way trees on Patton Avenue; and (5) Compliance with Erosion Control Ordinance.

Mayor Bissette said at the Council meeting of Febr[illegible]y 16, 1988, the public hearing was continued until February 23, 1988 giving property owners an opportunity to reach an agreement relative to the dedication of Cliff Street.

Verl Emrick, Director of Planning, said the issue with the dedication of Cliff Street has still not been resolved; however, it would be his recommendation that Council approve Phase I of the project in order to meet the construction schedule for renovations. He said the Planning and Zoning Commission would be considering Phase II of the project on March 3, 1988 and at that time Planning and Zoning would deal with the issues relating to the dedication of Cliff Street.

He said Phase I of the project would consist of 151,000 square feet of renovations and 36,000 square feet of new buildings. He said the developer would be providing 1000 parking spaces which exceeds the parking requirements.

Mr. Emrick explained the signs proposed for the project.

After discussion, Mayor Bissette closed the public hearing at 4:35 p.m.

Councilman Martin moved to approve Phase I of the site plan for the expansion of the Westgate Shopping Center contingent upon the conditions outlined by the Planning and Zoning Commission. This motion was seconded by Councilman Boland and carried unanimously.

III. OLD BUSINESS:

IV. NEW BUSINESS:

A. Consideration of participating in the Economic Development Partnership.

Resolution No. 88-31 - Resolution endorsing the establishment of an Economic Development Partnership and appointing initial members to the Board of the partnership.

Mayor Bissette said a task force consisting of David G. Brown, Chancellor of the University of North Carolina at Asheville, together with representatives from the City, the County, and the Chamber of Commerce has proposed the establishment of an Economic Development Partnership. The purpose of the Partnership is to focus, promote, and help implement the public/private community efforts toward assuring the continued economic vitality of the Asheville/Buncombe County area.

Vice-Mayor Michalove said the Economic Development Task Force met for approximately five months to create a coordinated effort to do a better job of economic development in the City of Asheville. He said the conclusion was to propose the creation of an Economic Development Partnership consisting of seven (7) individuals that would meet on a regular basis to create long range plans for the community in the area of economic development. He said they would also be encouraging present industries to expand.

Upon inquiry of Ralph Bishop, Mayor Bissette said the Economic Development Partnership would be seeking all types of industry.

John Mosely, representative from the Board of Realtors, questioned where the land for new industries would be coming from and the functions of the partnership.

Mayor Bissette responded to Mr. Mosely that the Chamber of Commerce maintains an inventory of potential industrial site.

Mayor Bissette said this resolution will also appoint Vice-Mayor Michalove to the Economic Development Partnership for a term to expire December 31, 1989 and Councilman Russell Martin for a term to expire on December 31, 1988.

Upon motion of Councilman Price, seconded by Councilman Boland, Resolution No. 88-31 was unanimously adopted.

Resolution Book No. 17 Page No. 91

B. **Ordinance No. 1676 - An ordinance amending Chapter 12-A of the Code of Ordinances of the City of Asheville with regard to floodplain regulations.**

Mayor Bissette said the Federal Emergency Management Agency has adopted new final rules which require changes in local ordinances with regard to flood plain regulations. The North Carolina Department of Crime Control and Public Safety has prepared model ordinances for local communities to use in revising their flood plain regulations. This ordinance will revise the City's flood plain ordinance to comply with federal regulations.

Julie Cogburn from the Planning Department explained the revisions proposed for the floodplain regulations. She said these revisions are required for compliance

with federal guidelines. She said several other revisions are proposed for clarity. She said the Planning Department would administer the ordinance.

Carol Albrice from the Planning Department detailed the major changes being made to the floodplain ordinance.

Councilman Price moved for the adoption of Ordinance No. 1676. This motion was seconded by Vice-Mayor Michalove.

On a roll call vote of 6-0, Ordinance No. 1676 passed on first reading.

C. **Ordinance No. 1677 - An ordinance amending Article VI of Chapter 2 of the Code of Ordinances of the City of Asheville establishing the Asheville Tree/Greenway Commission.**

Mayor Bissette said this ordinance will establish an Asheville Tree/Greenway Commission to promote the establishment of passive park areas known as "Greenways" and to foster the planting, growth and protection of trees on publicly owned areas with the City.

Councilman Martin moved for the adoption of Ordinance No. 1677. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1677 passed on first reading.

Vice-Mayor Michalove moved to suspend the rules and proceed to the second reading of Ordinance No. 1677. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1677 passed on second reading.

Vice-Mayor Michalove moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1677. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1677 passed on third and final reading.

Ordinance Book No. 11 Page No. 240-242

D. **Ordinance No. 1678 - An Ordinance amending Chapter 23A of the Code of Ordinances of the City of Asheville amending the Tree Ordinance.**

Mayor Bissette said this ordinance will amend the Tree Ordinance to reflect the establishment of the Asheville Tree/Greenway Commission.

Vice-Mayor Michalove moved for the adoption of Ordinance No. 1678. This motion was seconded by Councilman Boland.

On a roll call vote of 6-0, Ordinance No. 1678 passed on first reading.

Vice-Mayor Michalove moved to suspend the rules and proceed to the second reading of Ordinance No. 1678. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1678 passed on second reading.

Vice-Mayor Michalove moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1678. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1678 passed on third and final reading.

Ordinance Book No. 11 Page No. 243-244

E. **Resolution No. 88-32 - Resolution authorizing the Mayor to execute non-warranty deeds concerning parcels of property adjoining Poplar Street.**

Mayor Bissette said the right-of-way of Poplar Street has recently been relocated and there exists within properties, owned by David H. Levitch and wife Rosine J. Levitch and Henry E. Teich and S. Janson Grimes, a portion of the old right-of-way of Poplar Street. NCDOT has abandoned any interest in the former right-of-way and the City has been requested to convey any interest that it may have in said property in order to clear title and allow development of said properties.

The City Manager said it has been determined that the property is surplus.

Upon motion of Vice-Mayor Michalove, seconded by Councilman Bratton, Resolution No. 88-32 was unanimously adopted.

Resolution Book No. 17 Page No. 92

OTHER BUSINESS:

Resolution No. 88-33 - Resolution appointing a member to the Asheville Sign Commission

Mayor Bissette presented a resolution appointing Robert Patterson as a member of the Asheville Sign Commission due to the resignation of Gary Lowe.

Upon motion of Vice-Mayor Michalove, seconded by Councilman Martin, Resolution No. 88-33 was unanimously adopted.

Resolution Book No. 17 Page No. 93

CLAIMS - CATHY WALGATE (WATER) - MRS. J. W. BROWN (WATER) - SHEILA HUNTLEY (WATER) - KAREN WAGSTAFF (WATER) - DAVID BALL (STREETS) - CHARLES HARVEY (WATER)

The City Manager presented claims received from Cathy Walgate, Mrs. J. W. Brown, Sheila Huntley, Karen Wagstaff, David Ball and Charles Harvey.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

LAWSUITS - SHIRLEY W. BROWN AND BOBBY BROWN VS. CITY OF ASHEVILLE, ASHEVILLE WATER AND SEWAGE, BRUCE E. KENNEDY AND EMMA E. KENNEDY (PERSONAL INJURY FROM FALL IN WATER METER HOLE) - CONCERNED CITIZENS OF DOWNTOWN ASHEVILLE, JIM F. HUGHES, JOHN A. AUTEN, ROBERT H. JOLLY VS. BOARD OF ADJUSTMENT OF THE CITY OF ASHEVILLE (APPEAL FROM BOARD OF ADJUSTMENT DECISION)

The City was served with lawsuits during the week of February 15, 1988 involving Shirley W. Brown and Bobby Brown vs. City of Asheville, Asheville Water and Sewage, Bruce E. Kennedy and Emma E. Kennedy (personal injury from fall in water meter hole) and Concerned Citizens of Downtown Asheville, Jim F. Hughes, John A. Auten, Robert H. Jolly vs. Board of Adjustment of the City of Asheville (Appeal from Board of Adjustment decision).

Mayor Bissette referred the lawsuits to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP - LOTTERY SALES

Ralph Bishop again spoke to members of Council relative to the lottery sales in the City of Asheville.

ADJOURNMENT

Upon motion, the meeting adjourned at 5:25 p.m.

MAYOR

William F. Wolcott
CITY CLERK

Tuesday - March 1, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Norma T. Price, Wilhelmina Bratton, Russell Martin and Walter Boland; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Mary Lloyd Frank.

INVOCATION

The invocation was given by Vice-Mayor Michalove.

APPROVAL OF MINUTES - FEBRUARY 23, 1988

Mayor Bissette announced the approval of the minutes of the February 23, 1988 meeting as submitted.

I. PROCLAMATIONS:

A. Proclamation - Architecture Week - February 28 - March 5, 1988

Mayor Bissette read the proclamation and presented a copy to Danie Johnson and Walter Boggs, Architects.

B. Proclamation - March, 1988 as "Nutrition Month"

Mayor Bissette read the proclamation and presented a copy to Laurel Yaeger, President, Western N. C. District Dietetic Association and Elaine Currie.

C. Presentation by Quality Forward - "Crystal Clean"

Susan Roderick with Quality Forward introduced Debbie Hay, who is now portraying "Crystal Clean" in an effort to educate children of the need to keep our community clean. "Crystal Clean" replaced "Kati Clean-Up" the character from Quality Forward.

"Crystal Clean" said she goes into the schools and gives programs to children relative to keeping the community clean. She said she uses what is called an "environmental danger protector" to zap litter.

II. PUBLIC HEARINGS:

III. OLD BUSINESS:

A. Ordinance No. 1676 - Second reading of an ordinance amending Chapter 12-A of the Code of Ordinances of the City of Asheville with regard to floodplain regulations.

Mayor Bissette said the Federal Emergency Management Agency has adopted new final rules which require changes in local ordinances with regard to flood plain regulations. The North Carolina Department of Crime Control and Public Safety has prepared model ordinances for local communities to use in revising their flood plain regulations. This ordinance will revise the City's flood plain ordinance to comply with federal regulations. This ordinance passed on first reading on February 23, 1988.

Mayor Bissette said this ordinance was previously read and will not be reread in its entirety.

Verl Emrick, Director of Planning, said a draft of the ordinance was sent to Raleigh and tentative approval has been received.

The City Manager said no opposition has been received relative to the ordinance.

On a roll call vote of 6-0, Ordinance No. 1676 passed on second reading.

Councilman Michalove moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1676. This motion was seconded by Councilman Boland and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1676 passed on third and final reading.

Ordinance Book No. 11 Page No. 232-239

IV. NEW BUSINESS:

A. Ordinance No. 1679 - An Ordinance amending Chapter 13 of the Code of Ordinances of the City of Asheville entitled "Garbage and Refuse"

Mayor Bissette said this ordinance amends Chapter 13 of the Code relative to littering; accumulation, removal of weeds, trash, refuse, and other material; debris; trash; and rubber tires.

Mayor Bissette said this ordinance was previously presented to members of Council and will not be read in its entirety.

Charles Penny, Assistant City Manager, highlighted the major changes in the ordinance in relation to the current ordinance.

Upon inquiry of Council, Mr. Penny said junk vehicles are not covered by this particular ordinance.

Council members expressed a real commitment to having strict enforcement of this ordinance and to clean up the community.

Councilman Price said she felt an effort should be made to encourage citizens not to put out their garbage until the actual pick-up day.

LaRue Bolick, with Quality Forward, said there is a need to encourage downtown business owners to clean up around their businesses and to keep their dumpster doors closed.

Evelyn Wyatt, from the Montford Community, suggested that the City contract with neighborhood communities to clean up vacant lots in their particular area.

Ralph Bishop commented about the littering on Kenilworth Knoll Road. He said he believes the litter is coming from the Carolina Sports Club and McGuffy's.

After discussion, Councilman Bratton moved for the adoption of Ordinance No. 1679. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1679 passed on first reading.

Councilman Price moved to suspend the rules and proceed to the second reading of Ordinance No. 1679. This motion was seconded by Councilman Bratton and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1679 passed on second reading.

Councilman Price moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1679. This motion was seconded by Councilman Bratton and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1679 passed on third and finial reading.

Ordinance Book No. 11 Page No. 245-248

B. **Ordinance No. 1680 - An Ordinance deleting portions of Chapter 14 of the Code of Ordinances of the City of Asheville entitled "Health and Sanitation".**

Mayor Bissette said portions of Chapter 14 of the Code of Ordinances that are being deleted are no longer needed.

Mayor Bissette said this ordinance was previously presented to members of Council and will not be read in its entirety.

Councilman Price moved for the adoption of Ordinance No. 1680. This motion was seconded by Councilman Martin.

On a roll call vote of 6-0, Ordinance No. 1680, passed on first reading.

Councilman Price moved to suspend the rules and proceed to the second reading of Ordinance No. 1680. This motion was seconded by Councilman Martin and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1680, passed on second reading.

Councilman Price moved to suspend the rules and proceed to the third and final reading of Ordinance NO. 1680. This motion was seconded by Councilman Bratton and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1680 passed on third and final reading.

Ordinance Book No. 11 Page No. 249

C. **Approval of bids for Automobiles and Trucks for the Police Department, the Planning Department and the Public Works Department.**

Mayor Bissette said the bids were received for fourteen (14) patrol (blue and white), (3) unmarked police vehicles for the Police Department; one (1) mid-size sedan for the Planning Department and two (2) 3/4 ton four wheel drive pick-ups for the Public Works Department. Staff recommends the acceptance of the following bids: 14 each Police Vehicles - Patrol (blue and white) for the Police Department, Harrelson Ford, Inc. for 1988 Ford LTD Crown Victoria at $12,118.25 each =$169,655.50; 2 each police vehicles - unmarked for Police Department, Harrelson Ford, Inc. for 1988 Ford

LTD Crown Victoria at $11,725.00 each for a total of $23,450.00; 1 each police vehicle - unmarked with Cruise Control for Police Department, Harrelson Ford, Inc. for 1988 Ford LTD Crown Victoria at $11,839.00; 1 each mid-size sedan for Planning Department, Harrelson Ford, Inc. for 1988 Ford Taurus at $10,053.00

Mayor Bissette said it was his understanding that there was concern expressed relative to awarding this bid to an out of town firm. He said this matter was discussed with the local dealer and the city staff has researched the law to see if the City could give preference to a local dealer. He said the staff also checked with the Institute of Government relative to the City giving preference to a local dealer over the low bid firm.

The City Manager said from the research it was determined that giving preference to a local dealer was not criteria to use in not awarding a bid to a low bidder.

After discussion, Vice-Mayor Michalove moved to accept the recommendation to award the bids to Harrelson Ford, Inc. This motion was seconded by Councilman Martin and carried unanimously.

V. CONSENT:

A. **Resolution No. 88-34- Resolution authorizing submittal of an application to the U. S. Department of Housing and Urban Development for a grant to carry out Fair Housing activities.**

Mayor Bissette said the grant application will provide $29,000 to the City to carry out the second year of Fair Housing Enforcement activities. The City will contract with the Asheville-Buncombe Community Relations Council for staff support to the Fair Housing Commission to carry out the program.

Councilman Boland requested that the Fair Housing Commission give members of Council a status report.

Resolution Book No. 17 Page No. 94

B. **Resolution No. 88-35 - Resolution authorizing free parking at metered parking spaces on March 4, 5, and 6, 1988 for the Southern Conference Basketball Tournament.**

Mayor Bissette said the Southern Conference Basketball Tournament will be held in the Asheville Civic Center on March 4, 5, and 6, 1988. The capacity of the Civic Center Parking Garage is 600 cars. The number of persons attending the Southern

Conference Basketball Tournament exceeds this capacity. It is the desire of the City of Asheville to encourage attendance at this tournament and to make parking as convenient as possible. The Asheville City Council has determined that the best solution to this problem is to provide on-street parking without the necessity of leaving the Civic Center from time to time in order to feed the meters.

Resolution Book No. 17 Page No. 95

C. Resolution No. 88-36 - Resolution authorizing the City Manager to execute a contract with Tennoca Construction Company, Inc. for the Haywood Street and North French Broad Drainage Improvements.

Mayor Bissette said this resolution will authorize execution of a contract for drainage improvements at the intersection of Haywood Street and North French Broad Avenue, associated with the Chamber of Commerce building expansion.

Resolution Book No. 17 Page No. 96

Upon motion of Vice-Mayor Michalove, seconded by Councilman Boland the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

CLAIMS - EDGAR TODD (SEWER) - JOHN EDMONDSON (STREETS) - BRADY BLACKBURN (WATER) - TIM SPENCE (STREETS) - GLORIA GRAYLOR (STREETS) - LJ REALTY COMPANY (SEWER) - ROBERT LUTZ (STREETS) - MARY HEUER (PARKS) - RANDY SUTHARD (STREETS)

The City Manager presented claims received from Edgar Todd, John Edmondson, Brady Blackburn, Tim Spence, Gloria Graylor, LJ Realty Company, Robert Lutz, Mary Heuer, and Randy Suthard.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP - COMMENTS RELATIVE TO SIGN ORDINANCE AND LOTTERY SALES

Ralph Bishop commented to members of Council that the Sign Ordinance punishes local businesses. He also spoke relative to lottery sales in the City of Asheville.

ADJOURNMENT:

Upon motion, the meeting adjourned at 5:55 p.m.

MAYOR

CITY CLERK

Tuesday - March 8, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Norma T. Price, Mary Lloyd Frank and Russell Martin; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilmen Walter Boland and Wilhelmina Bratton

INVOCATION

The invocation was given by Councilman Martin.

APPROVAL OF MINUTES - MARCH 1, 1988

Mayor Bissette announced the approval of the minutes of the March 1, 1988 meeting as submitted.

I. PROCLAMATIONS

A. Proclamation -"Volleyball Week"- March 7-13, 1988.

Mayor Bissette read the proclamation and presented the proclamation to Donnie Luke.

II. PUBLIC HEARING

A. Public hearing relative to rezoning property located at 11 State Street.

Mayor Bissette opened the public hearing a 4:23 p.m.

The City Clerk presented the notice to the public and the affidavit of publication.

Verl Emrick, Director of Planning, said at a meeting held on January 13, 1988, the Planning and Zoning Commission considered the petition of Mr. John White that Ward 5, Sheet 11, Lot 72 be rezoned from R-3 Residential District to CS Commercial Service District. He said the Commission, after reviewing the request, voted to recommend to City Council that the petition be denied and that the property remain as it is currently zoned due primarily to the way the property is situated on State Street and also because the proposed zoning would go back too far into the residential area.

Mr. Emrick said Mr. White, the petitioner, had appealed the recommendation of the Commission and requested a hearing before the City Council.

Mr. White said he felt the "commercial service" designation was the only reasonable zoning for the property. He said he did not have any specific use planned for the property, but that he hoped to put something on the lot that would be acceptable to the neighborhood, but would also benefit him economically.

Mayor Bissette said he had received a letter from Mrs. Maxine Painter, 15 State Street, objecting to the rezoning.

Mr. Jay Steward of Beverly-Hanks spoke in support of the rezoning.

Mayor Bissette closed the public hearing at 4:36 p.m.

Mayor Bissette said copies of the ordinance were previously distributed and the ordinance would not be read unless there was a specific request to do so.

Councilman Price moved to remand the request back to the Planning and Zoning Commission for further consideration in regard to thoroughfare zoning or any alternatives that may arise. This motion was seconded by Vice Mayor Michalove and carried unanimously.

Mr. Emrick said the request would be taken before the Planning and Zoning Commission at their April meeting at no additional expense to Mr. White.

B. Public hearing relative to the site plan for West Terrace Center, Phase II to be located on West Patton Avenue.

Mayor Bissette opened the public hearing at 4:40 p.m.

The City Clerk presented the notice to the public and the affidavit of publication.

Mayor Bissette said Vice Mayor Michalove had requested to be excused from the discussion and vote on this matter due to conflict.

Councilman Frank moved to excuse Vice Mayor Michalove from the discussion and vote on the site plan for Phase II of the West Terrace Center. This motion was seconded by Councilman Martin and carried unanimously.

Verl Emrick, Director of Planning, said the site plan for Phase II comprises 14 acres. He said the project would consist of 4 buildings which total 42,000 square feet. He said the developer Mr. Stewart Coleman has complied with all parking and water and sewer requirements. He said the new streets to be

constructed would be privately owned. He said any motion by Council to approve the project should include the contingencies outlined by the Planning and Zoning Commission.

Mr. Stewart Coleman, property owner, said this is merely a continuation of an existing project and requested that Council approve the site plan.

Mayor Bissette closed the public hearing at 4:52 p.m.

Councilman Price moved to approve the site plan for Phase II of the West Terrace Center subject to the following conditions:

(1) Compliance with Sedimentation and Erosion Control Ordinance;

(2) Submission of utility letters from Water and Sewer Department and MSD;

(3) Proper closing of Parkwood Avenue, Oakwood Street, Oakwood Place, and a portion of Green Briar Road Extension;

(4) Installation of 20 foot buffer on eastern property line to meet city standards;

(5) Submission of sign package in accordance with Zoning Ordinance to be reviewed by staff;

(6) Submission of street and parking lot lighting plan to be reviewed by staff;

(7) Construction of new/unrelocated streets and parking lots to city standards.

This motion was seconded by Councilman Martin and carried unanimously.

III. OLD BUSINESS

IV. NEW BUSINESS

A. **RESOLUTION NO. 88-37 - Resolution adopting a Fiscal Policy for the City of Asheville.**

Mayor Bissette said this resolution will adopt a fiscal policy statement consolidating varying policies regarding City fiscal affairs into a comprehensive document which will serve as a guide to promote fiscal responsibility.

Mayor Bissette said copies of the resolution had previously been distributed to Council Members, and the resolution would not be read unless there was a specific request to do so.

Upon motion of Councilman Frank, seconded by Vice Mayor Michalove, Resolution No. 88-37 was unanimously adopted.

Complete text of Resolution No. 88-37 will be found in Resolution Book No. 17, Page 97.

B. RESOLUTION NO. 88-38 - Resolution adopting the 1988-89 Strategic Plan for the City of Asheville.

Mayor Bissette said the City Council has identified the major goals for the City for 1988, and these goals have been incorporated into a Strategic Plan to serve as a guide in carrying out city affairs.

Mayor Bissette said copies of the resolution had previously been distributed to Council Members, and the resolution would not be read unless there was a specific request to do so.

Upon motion of Councilman Price, seconded by Councilman Martin, Resolution No. 88-38 was unanimously adopted.

Complete text of Resolution No. 88-38 will be found in Resolution Book No. 17, Page 98.

V. CONSENT

A. RESOLUTION NO. 88-39 - Resolution of intent to close First Street and scheduling a public hearing for April 12, 1988.

Resolution Book No. 17, Pages 99 and 100

B. RESOLUTION NO. 88-40 - Resolution authorizing the Purchasing Director to sell surplus motor vehicles, equipment, and other surplus property at public auction.

Resolution Book No. 17, Page 101

Upon motion of Councilman Frank, seconded by Vice Mayor Michalove, the consent agenda was unanimously adopted.

VI. OTHER BUSINESS

A. RESOLUTION NO. 88-41 - Resolution of intent to close Parkwood Avenue, Oakwood Street, Oakwood Place (a/k/a Parkwood Place) and a portion of Green Briar Road Extension as shown on Exhibit A and scheduling a public hearing for April 19, 1988.

Mayor Bissette said the closing of these streets is in conjunction with site plan for Phase II of the West Terrace Center.

Mayor Bissette said copies of the resolution had previously been distributed to Council Members, and the resolution would not be read unless there was a specific request to do so.

Upon motion of Councilman Frank, seconded by Vice Mayor Michalove, Resolution No. 88-41 was unanimously adopted.

Complete text of Resolution No. 88-41 will be found in Resolution Book No. 17, Page 102 and 103.

B. CLAIMS - TROY WILLIAMS (STREETS) - SUSIE MOSELY (STREETS) - WACHOVIA BANK & TRUST COMPANY (STREETS)

The City Manager presented claims received from Troy Williams (Streets), Susie Mosely (Streets), and Wachovia Bank & Trust Company (Streets).

Mayor Bissette referred the claims to the City Attorney for investigation and recommendation.

C. LAWSUITS - UNITED GLAZED PRODUCTS, INC. VS. BLOSAM CONTRACTORS, INC., ET AL - FRED W. EGGERTON VS. CITY OF ASHEVILLE

The City Manager said the City of Asheville was named a party in lawsuits involving United Glazed Products, Inc., vs. Blosam Contractors, Inc. et als (lien perfection; City named a party since it has Deed of Trust) and Fred V. Eggerton vs. City of Asheville (property damage from automobile accident).

D. RALPH BISHOP - REQUEST FOR COPIES OF COUNCIL ACTION

Ralph Bishop requested copies of the records involving the $1,800,000 approved for the Schneider Nine Project and the $100,000 approved for downtown development.

Mayor Bissette advised Mr. Bishop that the $100,000 was approved for the Economic Development Partnership in last year's budget. He requested that staff furnish Mr. Bishop with copies of the records he had requested.

VII. ADJOURNMENT

Upon motion of Councilman Frank, seconded by Councilman Price, Council adjourned to Executive Session at 5:25 p.m.

MAYOR

CITY CLERK

Tuesday - March 15, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell Martin, and Walter Boland; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Councilman Wilhelmina Bratton.

APPROVAL OF MINUTES - MARCH 8, 1988

Approval of minutes of March 8, 1988 meeting.

Mayor Bissette announced the approval of the minutes of the March 8, 1988 meeting as submitted.

I. PROCLAMATIONS:

II. PUBLIC HEARINGS:

III. OLD BUSINESS:

IV. NEW BUSINESS:

A. Resolution adopting an Affirmative Action Plan for the City of Asheville.

Mayor Bissette said the City of Asheville is committed to a policy of equal employment opportunity. In furtherance of this, an Affirmative Action Plan has been prepared which is designed to achieve parity between the City's workforce and the relevant labor market through recruitment, employment, training and promotion. This resolution will formally adopt the Plan.

Mayor Bissette noted that no official action would be taken on the resolution at today's meeting. He said several groups had requested time to review the plan prior to Council's adoption.

Councilman Walter Boland, Chairman of the Equal Employment Opportunity Task Force, reviewed the following memorandum to Members of Council:

"MEMORANDUM TO: City Council

FROM: Walter R. Boland, Chairman, EEO Task Force

SUBJECT: The Affirmative Action Plan

DATE: March 4, 1988

After a great many meetings of the entire Task Force and a subcommittee of the same group we recommend the adoption of the enclosed Affirmative Action Plan. The document is a strong one when compared to the Affirmative Action Plans of other cities in North Carolina and is designed to achieve parity between the City's workforce and the Relevant Labor Market. This parity will be reflected in specified job classifications, EEO job categories and in each city department. The members of the Task Force are grateful to members of the City's staff including Doug Bean and Pam McGrayne for their aid and advice in our deliberations.

The EEO Task Force as you remember, was formed to develop a strong plan for affirmative action. The concern of the City Council was that there were too few blacks and women found in the upper echelons of the city's organization and that we needed to make an effort to remedy this situation. More specifically, there were complaints from the black community that black police officers were blocked from attaining the rank of Lieutenant or above and that this problem had existed for at least 40 years. While the present City Manager has recently appointed three women department heads and a black assistant City Manager, the sentiment is still strong that Asheville needs to do more and I feel that the plan we recommend for your adoption will be a major step in that direction.

In your reading of the plan you should note in particular certain features that make this plan a strong one. First, responsibilities for the plan and its implementation are clearly spelled out. That is, the City Council, the City Manager, as well as Department Heads and Supervisors, are made responsible for effective implementation and success of the plan. To ensure that this is the case, the plan proposes the annual performance appraisal of each be informed by their efforts and achievements in this area. In particular, it should be noted that the City Council shall review the annual "Affirmative Action Report" and

use it as one criteria to consider in the City Manager's annual evaluation. In addition, the City Council shall, after reviewing the report, call for appropriate remedies for unsolved problems having to do with under-utilization. Second, the plan describes an ongoing monitoring and reporting system that will be in place 6 months after its adoption. The monitoring will be done by making use of the Opportunity Index and the Eight Factor Analysis for Utilization. These two measures are widely used in private industry and will allow the city to determine specific areas and departments that need additional remedial action and whether minorities or females are under-utilized in any of the EEO Job Categories. What should be emphasized here is that these two measures will allow the city for the first time to systematically and effectively measure under-utilization. Third, the plan calls for the development of a recruitment effort to address the problem areas of under-utilization. The plan should identify points in the recruitment hiring and promotional processes which appear to have an adverse impact on minorities and females. Lastly, the plan specifies certain needed training and career development efforts.

While the members of the Task Force feel that the plan submitted to you is a strong one, we are in agreement that the plan is only one ingredient in a successful Affirmative Action Program. The other necessary ingredient is a strong commitment by the City Manager, the City staff, and the City Council to its effective implementation. Without this commitment, very little can be accomplished.

The Task Force also recommends the following actions on the part of the City Council: (1) To hold an annual public hearing on the "Affirmative Action Report" to allow the public an opportunity to respond to the City's efforts at implementation. (2) That the City Council seek to repeal the Civil Service Law and establish a personnel board pursuant to North Carolina General Statute 160A-165. With such a change, the city would place primary responsibility for testing with the Personnel Department and re-define the primary role of the Civil Service Board or other "Personnel Board" to be advisory and judicial (currently the Civil Service Board is involved in many areas, above and beyond testing, including reclassification, career development, leaves of absence, transfers, internal reorganization, etc.) Such a repeal would aid in the accomplishment of the goals of the plan. The repeal, as you many know, was recommended by Don Hayman of the Institute of Government.

In closing, I'd like to thank the members of this Task Force for their great effort in producing this plan and for their forthrightness in our deliberations. Obviously, such deliberations will include strong sentiments that can degenerate into petty squabbles. That this didn't happen is a testimony to the commitment of the Task Force."

Councilman Martin requested that the proposed plan be presented to current city employees.

Vice-Mayor Michalove questioned whether or not it would be feasible to go through the process of the Opportunity Index and the Eight Factor Analysis for Utilization prior to Council adopting the plan.

In response to Vice-Mayor Michalove, Councilman Boland said that is possible, however some data for the Eight Factor Analysis is already available. He said some of the information will have to be developed in house and some would have to be researched.

Upon inquiry of Council, the City Manager said in his opinion there would be no problems in implementation of the plan. He said city staff is now in the process of gathering data for the plan.

After considerable discussion, Mayor Bissette said the proposed Affirmative Action Plan would be reviewed and considered for adoption at a later meeting.

A(1). **Resolution No. 88-42 - Resolution authorizing the Mayor to execute an amendment to the Airport Agreement**

Mayor Bissette said in a special election held on September 22, 1987, the voters approved an $8 Million general obligation bond issue for the expansion of the Asheville Regional Airport. The County has expressed concerns about the issuance of the bonds without amendment to the agreement dated November 29, 1979, between the City of Asheville and the County of Buncombe. This resolution will authorize the execution of an amendment to that agreement as follows:

1. To provide that the Agreement not be unilaterally terminated by the City for a period for a period of thirty (30) years.

2. That the County be allowed participation in the Airport Authority budget process.

3. That in the event the Federal Aviation Administration shall determine that use of certain lease revenues after January 1, 1988, shall adversely affect discretionary funding for the Airport, then said lease revenues shall be applied to the Airport. In the event, however, that the Federal Aviation Administration shall determine that the City may appropriately continue to use the lease revenues for Transit Authority purposes without adverse effect upon discretionary funding for the Airport, that the lease revenues continue to be used for Transit Authority purposes. Until a final determination by the Federal Aviation Administration, all lease revenues from and after January 1, 1988, shall be set aside and withheld for proper application following the Federal Aviation Administration decision.

Upon motion of Vice-Mayor Michalove, seconded by Councilman Frank, Resolution No. 88-42 was unanimously adopted.

Resolution Book No. 17 Page No. 104-107

B. **Ordinance No. 1681 - Ordinance establishing a 45 mph speed limit on a portion of Airport Road (SR 3526)**

Mayor Bissette said this action has been requested by the North Carolina Department of Transportation and will establish a 45 m.p.h. speed limit on a portion of Airport Road within the existing City Limits near the Asheville Airport. The 45 m.p.h. speed limit is recommended by the N.C.D.O.T. as the appropriate speed limit for this section of highway.

Councilman Price also requested that the N.C.D.O.T. investigate the feasibility of installing lighting or reflectors at the intersection of Airport Road and the turn onto I-26 into Asheville.

Councilman Price moved for the adoption of Ordinance No. 1681. This motion was seconded by Councilman Frank.

On a roll call vote of 7-0, Ordinance No. 1681 passed on first reading.

Vice-Mayor Michalove moved to suspend the rules and proceed to the second reading of Ordinance No. 1681. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1681 passed on second reading.

Vice-Mayor Michalove moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1681. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1681 passed on third and final reading.

Ordinance Book No. 11 Page No. 250

C. **Resolution No. 88-43 - Resolution authorizing the City Manager to execute a contract on behalf of the City of Asheville with McGladrey, Henderickson and Pullen to develop computer specifications.**

Mayor Bissette said a proposal was received to assist the City with the selection of a new data processing system. It has been recommended that the firm of McGladrey, Hendrickson & Pullen be accepted to assist in the system selection.

Upon motion of Councilman Martin, seconded by Councilman Price, Resolution No.88-43 was unanimously adopted.

Resolution Book No. 17 Page No. 108

Ordinance No. 1682 - Budget Ordinance amendment to provide funding for professional assistance in developing computer specifications.

Mayor Bissette said this budget amendment will provide funding in the amount of $60,000 for professional assistance in developing request for proposals and evaluating proposal for data processing system.

Vice-Mayor Michalove moved for the adoption of Ordinance No. 1682. This motion was seconded by Councilman Frank.

On a roll call vote of 7-0, Ordinance No. 1682 passed on first and final reading.

Ordinance Book No. 11 Page No. 251

D. **Resolution No. 88-44 - Resolution endorsing and supporting the upgrade of US 23 to interstate standards, from Asheville to the Tennessee line, and calling upon the N. C. Department of Transportation to advance the completion of this project to coincide with the State of Tennessee's completion date of 1992.**

Mayor Bissette said this resolution will endorse and support the upgrading of US 23 to interstate standards, from Asheville to the Tennessee Line.

Councilman Price said she would support the resolution but noted that this request is in no way intended to decrease funding for proposed highway projects for Asheville.

After discussion, Mayor Bissette said he would send a transmittal letter to the N.C.D.O.T. noting Councilman Price's concern.

Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 88-44 was unanimously adopted.

Resolution Book No. 17 Page No. 109

V. CONSENT:

A. Resolution No. 88-45 -Resolution appointing members to the Asheville Cablevision Commission.

SUMMARY: The Asheville Cablevision Commission was created by Resolution No. 86-77 dated April 29, 1986 and the City Council desires to establish fixed terms for the members of the Commission other than have the members serve at the pleasure of Council as set forth in the original resolution. The Commission shall hereafter be composed of a City Council representative who shall serve as Chairman, a representative of Asheville Cablevision or its successor in interest, and three (3) community representatives.

Resolution Book No. 17 Page No. 110

B. Motion scheduling a public hearing relative to amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville", As Amended (Creating a New Section 30-3-14, Landscape and Buffering Requirements) for April 12, 1988.

SUMMARY: This ordinance will amend Ordinance No. 322 by creating a new section 30-3-14, Landscape and Buffering Requirements.

C. Motion scheduling a public hearing relative to rezoning property located at 177 Brickyard Road from R-2 Residential District to R-5 Residential District for April 12, 1988.

SUMMARY: The Asheville Planning and Zoning Commission at a meeting on March 2, 1988, reviewed the petition of Mr. Carl Chambers that Lot 22, Sheet 12, Ward 12 (177 Brickyard Road) be rezoned from R-2 Residential District to R-5 Residential District. Commission recommended approval of the petition.

Councilman Price moved to delete Item D from the consent agenda and that the matter be considered separately and further that Mayor Bissette be excused from voting on Item D due to his law firm representing Daniels Business Service, Inc. This motion was seconded by Councilman Bratton and carried unanimously.

Upon motion of Vice-Mayor Michalove, seconded by Councilman Martin, the consent agenda was unanimously approved.

D. **Motion authorizing the City Manager to execute an agreement with Daniels Business Service, Inc. regarding property along the east side of Rankin Avenue.**

SUMMARY: This motion will authorize an agreement with Daniels Business Service, Inc. regarding property along the east side of Rankin Avenue.

Councilman Price moved to authorize the City Manager to execute an agreement with Daniels Business Service, Inc. regarding property along the east side of Rankin Avenue. This motion was seconded by Councilman Frank and carried on a vote of 6-0, with Mayor Bissette being excused from the vote.

OTHER BUSINESS:

COMMENTS BY COUNCILMAN MARTIN

Councilman Martin said he was very pleased with actions taken by Council today toward the implementation of an Affirmative Action Plan and the authorization to start the process of selecting a new data processing system.

CITY MANAGER COMMENTS - ARTICLE IN NEWSPAPER REGARDING PARKING CITATIONS

The City Manager noted that after investigation it was determined that the recent article in the Asheville Citizens-Times, written by Bob Terrell, relative to a parking citation was in error.

After a brief discussion, the City Manager was instructed to contact the Executive Editor of the Asheville Citizen-Times for a possible retraction.

CITY MANAGER COMMENTS - ELECTION BY POLICE AND FIRE DEPARTMENT RELATIVE TO PARTICIPATION IN SOCIAL SECURITY

The City Manager noted that both the Police and Fire Department, in a recent election, voted not to participate in Social Security benefits. The actual vote being: Police Department 6 voting yes and 33 voting no. Fire Department 29 voting yes and 67 voting no.

CITY MANAGER COMMENTS - SPRINKLER SYSTEM FOR CITY HALL BUILDING

The City Manager said Chief John Rukavina of the Asheville Fire Department had informed him that the North Carolina State Building Code Council had approved the use of a sprinkler system for the City Hall Building in lieu of an additional stairwell. The approval would be applicable only from the sixth floor down and that further provisions would have to made for the seventh and eighth floors.

CLAIMS - L. R. CLAYTON (SEWER) - ROBERT WEST (WATER) - DONNIE BALL (SEWER) - JAMES CRAIG (WATER) - SOUTHERN BELL (WATER)

The City Manager presented claims received from L. R. Clayton, Robert West, Donnie Ball, James Craig, and Southern Bell.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

LAWSUIT - CHRISTOPHER HEWITT VS. CITY OF ASHEVILLE (PROPERTY DAMAGE FROM SEWER BACKUP)

The City Manager said the City was served with a lawsuit on March 8, 1988 involving Christopher Hewitt d/a/a/ Hewitt Press vs. City of Asheville relative to property damage from sewer backup.

RALPH BISHOP - LOTTERY SALES

Ralph Bishop again spoke to members of Council relative to lottery sales in the City of Asheville.

ADJOURNMENT

Upon motion, the meeting adjourned at 6:10 p.m.

MAYOR

CITY CLERK

Tuesday - March 22, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, and Russell Martin; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Walter Boland

INVOCATION

The invocation was given by Councilman Martin.

APPROVAL OF MINUTES - MARCH 15, 1988

Mayor Bissette announced the approval of the minutes of the March 15, 1988 meeting as submitted.

I. PROCLAMATIONS:

II. PUBLIC HEARINGS:

A. Resolution No. 88-46 - Resolution to close the twenty (20) foot public street or alley described in Deed Book 781, at page 227, Buncombe County Registry. (Between Fairfax Avenue and Dale Street).

Mayor Bissette said Christ Fellowship Church, owners of Tax Lots 247 and 11, Sheet 14, Ward 5, adjoining a twenty (20) foot street or public alley, filed a written petition and request with the City Council that the street or public alley be permanently closed to public use.

Mayor Bissette opened the public hearing at 4:33 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Marc Rudow, Attorney representing Christ Fellowship Church, spoke in support of the closing of the street. He said the street is bordered on three sides by church property and by the North Carolina Department of Transportation I-240 on the other

side. He said proper notification relative to the proposed closing has been given to the North Carolina Department of Transportation.

Councilman Price questioned whether the closing of this street was in keeping with the recently approved group development plan for Christ Fellowship Church and if the Church will comply with all the provisions stipulated in the approval of the group development plan.

Mr. Rudow responded that he did not know about the group development plan but only about the request of the Church to have the street closed.

Mayor Bissette noted that the Public Works Department has indicated that they have no objections to the closing of this street.

Mayor Bissette closed the public hearing at 4:35 p.m.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 88-46 was unanimously adopted.

Resolution Book No. 17 Page No. 111-112

III. OLD BUSINESS:

IV. NEW BUSINESS:

A. Ordinance No. 1683 - Budget ordinance amendment to provide funding for agreement with Asheville Discovery.

Mayor Bissette said this budget amendment will provide funding for agreement with Discovery Asheville.

The City Manager noted that this amendment in the amount of $10,000 would fund the "Grove Arcade Program" and "Discovery Day."

Councilman Price moved for the adoption of Ordinance No. 1683. This motion was seconded by Councilman Martin.

On a roll call vote of 6-0, Ordinance No. 1683 passed on first and final reading.

V. CONSENT:

A. Approval of bids for herbicide for the City of Asheville for the Public Works and Parks and Recreation Departments.

SUMMARY: Recommendation is to the lowest bidder, Southern States, Inc., Asheville, North Carolina, in the amount of $28,436.00.

B. Approval of bids for fire pumper/squad unit for the Fire Department.

SUMMARY: Recommendation of award for one Fire Pumper/Squad Unit to the low bidder, Emergency Apparatus, Inc., Durham, North Carolina, in the amount of $106,193.00.

C. Resolution No. 88-47 - Resolution authorizing the City Manager to execute contract with Asheville Discovery

SUMMARY: This agreement by and between the City of Asheville and the Asheville-Buncombe Discovery, Inc. is for the City to fund certain programs of Asheville-Buncombe Discovery, Inc.

Resolution Book No. 17 Page No. 113

Upon motion of Vice-Mayor Michalove, seconded by Councilman Frank, the consent agenda was unanimously adopted.

VI. OTHER BUSINESS:

CLAIMS - ALAINA MOORE (FIRE) - SUZANNE TEW (FIRE) - RONNIE EDWARDS (WATER) - SOUTHERN BELL (WATER) - DELLA LAWHON (STREETS) - PARKLAND CORP. (PARKS) - R. L. BAILEY (STREETS) - GARY BURNETTE (STREETS)

The City Manager presented claims received form Alaina Moore, Suzanne Tew, Ronnie Edwards, Southern Bell, Della Lawhon, Parkland Corp., R. L. Bailey, and Gary Burnette.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

LAWSUITS - BONNY E. CAMERON VS. CITY OF ASHEVILLE, COUNTY OF BUNCOMBE AND VECTOR HOSPITALITY ASSOCIATION (FALL) - BEST MASONRY CONSTRUCTION, INC. VS. PACK PLAZA, LTD., ET ALS (LIEN) - DON H. TRANTHAM VS. CITY OF ASHEVILLE (APPEAL FROM CIVIL SERVICE)

The City Manager said the city was served with lawsuits involving Bonny E. Cameron vs. City of Asheville, County of Buncombe, and Vector Hospitality Association relative to a fall on a piece of pipe sticking up on sidewalk; Best Masonry Construction Inc., vs. Pack Plaza, Ltd., et als relative to a lien perfection; City named a party since it has Deed of Trust; and Don H. Trantham vs. City of Asheville relative to an appeal from Civil Service Board decision.

Mayor Bissette referred the lawsuits to the Corporation Counsel for investigation and recommendation.

MR. MARTINES - COMMENTS - COMPLAINTS - ASHEVILLE POLICE DEPARTMENT

Mr. Martines spoke to members of Council relative to the establishment of a Civilian Review Board elected by the citizens of Asheville, a City School Board elected by the citizens of Asheville, and the upgrading of the Community Relations Council to a Human Relations Office.

Mr. Martines also commented on three male members of his church, the Bethel Seventh Day Adventist Church, having some point of contention with the Asheville Police Department. He said one police officer had been suspended because of misconduct in the issuance of a traffic citation to a member of his church; another member's case is in the court process, and his own case is now being handled by internal affairs. He read portions of a news article in the Asheville Citizen-Times on Saturday relative to an armed robbery and portions of a complaint relative to his being a suspect in the armed robbery. He inquired as to the extent his name would stay on the police records. He requested that he be placed on Council's agenda in order for him to present more details about the matter.

Mr. Martines said he was also very concerned about the homeless problem in the City.

Mayor Bissette told Mr. Martines that many organizations in the City would welcome his input such as the ABCCM and the Asheville-Buncombe Community Relations Council. He also told Mr. Martines that changes in the appointments to the Asheville City School Board would have to be made by the State legislature.

RALPH BISHOP - RIGHT TO ADDRESS COUNCIL - SCHNEIDER NINE AGREEMENT

Ralph Bishop spoke to members of Council relative to the right to address Council. He also requested a copy of the Schneider Nine Agreement.

AIRPORT - MEMORANDUM OF AGREEMENT

Mayor Bissette read a proposed Memorandum Of Agreement in an effort to address and resolve issues that have arisen between the County of Buncombe and the City of Asheville in connection with the Asheville Regional Airport.

Councilman Bratton left the meeting unexcused.

Vice-Mayor Michalove said the City had received a letter from the Federal Aviation Administration on March 21, 1988 indicating that if the Airport is to continue being eligible for discretionary funds lease revenues would have to pass to the Airport Authority. He said it appears that the City has exhausted all routes to have the Federal Aviation Administration change their ruling. He said the City was trying to do what was best for the citizens of Asheville in using airport lease revenues for the bus system. He said the City might have to implement a tax increase or service reductions in order to fund the bus system. He said in order for the Airport to continue receiving discretionary funds he felt the execution of this agreement would be in the best interest of all residents and taxpayers of the City of Asheville.

Mayor Bissette said the City would be agreeing to leasing property at the Airport to the Airport Authority in lieu of an ownership role; agreed to language to provide funding for capital or operating deficits of the Airport Authority; and to abide by rulings of the FAA. He said members of Council have agreed not to appeal the ruling from the Federal Aviation Administration that requires the City to begin putting lease money back into the Airport and to stop using the funds to help subsidize the bus system. He said Council members want the Airport Expansion Program to go forward. He pointed out that only leased revenue received after December 31, 1987 will be affected by the ruling and the FAA has affirmed that fact. He said they also affirmed that expenditures of lease revenue for transit purposes prior to December 31, 1987 have not and will not affect either future entitlement or discretionary funding.

He said the County has made unfair accusations that the city's use of lease funds for the bus system caused the FAA to deny discretionary funds for airport improvements. He said these accusations are simply not true. The City has used funds properly and within the law from the beginning. He said it is time the record is set straight and it was Council's hope that the County would attempt to set the record straight by acknowledging that the City has not misused funds and acted totally within federal law. He said it is unfortunate that the County Commissioners have never given one hint of concern for the 62,000 city residents who will have to pay to make up the loss of $100,000 in lease revenues that will now be used for the airport instead of the bus system. He said this is going to cost the city taxpayer about a cent on the tax rate. He said City residents are County residents also but there has been no concern at all expressed by the Commissioners for their constituents who live in the City and will have to pay to make up this loss.

He said it is good that airport improvements can now proceed, however in his opinion the process that has been gone through has been completely unnecessary and could have been

handled much differently. He said he felt this will cause difficulty and has not contributed to cooperation between the City and County.

Councilman Price said it should be noted that the County could sell the bonds for the Airport Expansion even if the City did not enter into this Memorandum of Agreement. She said in her opinion the County should have issued the bonds then negotiated these concerns with the City.

Councilman Martin said the City Council has made an effort to facilitate the issuance of the Airport Expansion Bonds; however, now the City must find a resource to fund $100,000 to the bus system and still try to avoid a tax increase.

Councilman Price noted that the Memorandum of Agreement has language relative to property being leased to the Airport Authority. She said this property is only property currently under lease to the Airport Authority.

Councilman Boland moved that the Mayor be authorized to execute the Memorandum of Agreement. This motion was seconded by Councilman Martin and carried unanimously.

ADJOURNMENT:

Upon motion of Vice-Mayor Michalove, seconded by Councilman Martin, the meeting adjourned.

MAYOR

CITY CLERK

Tuesday - March 29, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell Martin, and Walter Boland; Corporation Counsel William F. Slawter; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: City Manager Douglas O. Bean

INVOCATION

The invocation was given by Councilman Norma Price.

APPROVAL OF MINUTES - MARCH 22, 1988

Mayor Bissette announced the approval of the minutes of the March 22, 1988 meeting as submitted.

I. PROCLAMATIONS:

A. Resolution No. 88-48 - Resolution commending Asheville High School for its participation in the International Exchange Program and recognizing the foreign exchange students and teacher from Japan and other exchange students from Spain, Brazil, Kenya, New Zealand, West Germany, Peru, Denmark, and England.

Mayor Bissette read the resolution and presented a copy of the resolution and a welcome letter to each student and teacher.

Upon motion of Councilman Bratton, seconded by Councilman Price, Resolution No. 88-48 was unanimously adopted.

Resolution Book No. 17 Page No. 114

B. **Proclamation -"Fair Housing Month" - April, 1988**

Mayor Bissette read the proclamation and presented a copy to Hazel Turner, member of the Fair Housing Commission.

C. **Proclamation - "Community Development Week" - April 2 - 9, 1988**

Mayor Bissette read the proclamation and presented a copy to Marvin Vierra, Community Development Director.

After a brief discussion relative to Community Development funding, Councilman Price moved that the Mayor be authorized to communicate with Senator Terry Sanford to request his support for Community Development Block Grant funding at the current level in the FY 89 Senate Budget Resolution. This program has experienced reduced funding for the past three (3) years, and the program is providing immeasurable benefits for Asheville's low and moderate income residents. This motion was seconded by Councilman Frank and carried unanimously.

D. Proclamation - "Parkinsons Awareness Month" - April, 1988

Mayor Bissette read the proclamation and presented a copy to Mrs. Samuel A. Bingham, President of the Asheville Parkinsons Support Group.

E. Proclamation - "Cablevision Month" - April, 1988

Mayor Bissette read the proclamation and presented a copy to Joe Haight, General Manager of Asheville Cablevision.

Mr. Haight outlined the events taking place during "Cablevision Month".

II. PUBLIC HEARINGS:

III. OLD BUSINESS:

A. Ordinance No. 1684 - An ordinance amending Section 18-12 of the Code of Ordinances of the City of Asheville regulating noise.

Mayor Bissette said this ordinance will amend the noise ordinance so as to regulate noise level emissions associated with automobile racing and related events.

The Corporation Counsel outlined the specific provisions amending Section 18-12 of the Code of Ordinance regulating noise.

Vice-Mayor Michalove said it has been determined by the courts that the racetrack would not apply to the nonconforming provisions stipulated in Section 30-3-3 of the Zoning Ordinance. Therefore, Council has been working with the racetrack owner to alleviate some of the problems associated with the racetrack.

The Corporation Counsel and Russell Leicht, Racetrack Owner and Operator, answered general questions from members of Council.

Upon inquiry of Vice-Mayor Michalove, the Corporation Counsel said these amendments would not address singing, etc. on public streets or barking dogs. He said the maximum fine for noncompliance would be $50.00 or thirty (30) days imprisonment.

Councilman Martin noted that this ordinance indicates the City of Asheville and Asheville Speedway's intent to come up with a manageable ordinance. He said these provisions could be tested and reviewed at a later date.

Upon inquiry of Mayor Bissette, Mr. Leicht said there is ample parking for the races with thirty (30) acres for parking. He said he also has police officers to help with traffic congestion.

Upon inquiry of Mayor Bissette, Mr. Leicht said he could provide members of Council with a demonstration of mufflered and unmufflered cars.

Herman Rector, 59 Greeley Street, commended the City and the racetrack owner for addressing the concerns of the residents in the area. He said he felt racing on Sunday, rock concerts, and tent carnivals should also be addressed in this ordinance.

Mr. Rector said he felt Council should look into means of avoiding the development of future race tracks in the City.

Bill Huskey, Thrifty Mufflers, said the mufflers to be used by the race car drivers have been approved for indoor use.

Upon inquiry of Councilman Price, Mr. Leicht said he would try to arrange that the last race of the evening, even during special events, would be by cars that have been mufflered.

After discussion, Councilman Frank moved for the adoption of Ordinance No. 1684. This motion was seconded by Vice-Mayor Michalove.

On a roll call vote of 7-0, Ordinance No. 1684 passed on first reading.

Mayor Bissette said he felt members of Council would like to see a demonstration of the mufflered cars during a Pre-Council meeting prior to the third reading of the ordinance.

IV. NEW BUSINESS:

V. CONSENT:

A. Resolution No. 88-49 - Resolution authorizing the City Manager to execute all right-of-way encroachment agreements with the North Carolina Department of Transportation for the purpose of placement, replacement and repair of storm drainage and sanitary sewer structures that are to be located within the right of way limits of any state maintained road or highway.

SUMMARY: This resolution will authorize blanket authority for the City Manager to execute encroachment agreements with the North Carolina Department of Transportation for sewer lines.

Resolution Book No. 17 Page No. 115

B. Resolution No. 88-50 - Resolution approving the sale and conveyance of certain disposal parcels located in the East Riverside Urban Renewal Project by the Housing Authority of the City of Asheville - Disposal Parcels 57A, 57B, 99, and 118/165.

SUMMARY: Due to the change in the N.C. General Statutes, it is necessary for the Housing Authority to reconsider the proposals on five parcels of land recently approved by City Council. The new law of which the Housing Authority was not aware changed the length of time of advertising for bidders from "once a week for two weeks, ten days prior to bid opening" to "once at least 30 days prior to bid opening."

Said parcels being as follows:

Disposal Parcel 99 (Plat Book 52 at Page 33) to Arthur F. Jenkins and Sidney Lance Wait, Disposal Parcel 57A (Pat Book 46 at Page 39 and Plat Book 48 at Page 173) to L. B. Jackson & Co., Disposal Parcel 57B (Plat Book 46 at Page 39 and Plat Book 48 at Page 173) to Asheville Merchants Association, Inc., Disposal Parcel 118 (Plat Book 50 at Page 115) to Mountain Area Hospice, Inc., and Disposal Parcel 165 (Plat Book 50 at Page 115) to Mountain Area Hospice, Inc.

Resolution Book No. 17 Page No. 116

C. Resolution No. 88-51 - Resolution authorizing the Mayor to execute and file an application on behalf of the City of Asheville with the State of North Carolina for a grant to aid in the construction of Water System Improvements for Haw Creek, Oteen, South and West Annexation Areas (1988).

SUMMARY: This resolution will authorize the Mayor to file an application on behalf of the City of Asheville with the State of North Carolina for a grant to aid in the construction of the project described above.

Resolution Book No. 17 Page No. 117-118

D. Resolution No. 88-52 - Resolution establishing a Water Conservation Program in connection with the Water System Improvements Program - 1988 Annexation Areas - Clean Water Revolving Loan and Grant Act of 1987.

SUMMARY: In connection with the application for a grant to aid in the construction of Water System Improvements for Haw Creek, Oteen, South and West Annexation Areas it is necessary to adopt a resolution establishing a Water Conservation Program.

Resolution Book No. 17 Page No. 119

E. Resolution No. 88-53 - Resolution establishing a Capital Reserve Fund in connection with the Water System Improvements Program - 1988 Annexation Areas - Clean Water Revolving Loan and Grant Act of 1987.

SUMMARY: In connection with the application for a grant to aid in the construction of Water System Improvements for Haw Creek, Oteen, Sough and West Annexation Areas (1988) it is necessary to adopt a resolution establishing a Capital Reserve Fund.

Resolution Book No. 17 Page No. 120

F. Resolution No. 88-54 - Resolution authorizing the Mayor to execute and file an application on behalf of the City of Asheville with the State of North Carolina for a grant to aid in the construction of Wastewater System Improvements for Haw Creek, Oteen, South and West Annexation Areas (1988).

SUMMARY: This resolution will authorize the Mayor to file an application on behalf of the City of Asheville with the State of North

Carolina for a grant to aid in the construction of the project described above.

Resolution Book No. 17 Page No. 121-122

G. **Resolution No. 88-55 - Resolution establishing a Water Conservation Program in connection with the Wastewater System Improvements Program - 1988 Annexation Areas - Clean Water Revolving Loan and Grant Act of 1987.**

SUMMARY: In connection with the application for a grant to aid in the construction of Wastewater System Improvements for Haw Creek, Oteen, South and West Annexation Areas it is necessary to adopt a resolution establishing a Water Conservation Program.

Resolution Book No. 17 Page No. 123

H. **Resolution No. 88-56 - Resolution establishing a Capital Reserve Fund in connection with the Wastewater System Improvements Program - 1988 Annexation Areas - Clean Water Revolving Loan and Grant Act of 1987.**

SUMMARY: In connection with the application for a grant to aid in the construction of Wastewater System Improvements for Haw Creek, Oteen, South and West Annexation Areas (1988) it is necessary to adopt a resolution establishing a Capital Reserve Fund.

Resolution Book No. 17 Page No. 124

Upon motion of Councilman Martin, seconded by Councilman Michalove, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

CLAIMS - SHARON PETTIJOHN (WATER) - J. T. ANDERSON (WATER) - DON TOMBERLIN (FIRE) - CLIFF LONGCOY (FIRE) - LINDA GARREN (WATER) - ROBERTA ALLEN (WATER) - JULIUS McDOWELL (WATER) - DICK MEEHAN (WATER)

The City Manager presented claims received from Sharon Pettijohn, J. T. Anderson, Don Tomberlin, Cliff Longcoy, Linda Garren, Roberta Allen, Julius McDowell, and Dick Meehan.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

LAWSUITS - EDGAR JOE DURHAM, d/b/a WOODWORKING AND CONTRACTING VS. BLOSAM CONTRACTORS, INC., ET AL (LIEN PERFECTION; CITY NAMED

A PARTY SINCE IT HAS DEED OF TRUST) - WILLIAM A. STEWART, d/b/a SUPERIOR PAINT VS. BLOSAM CONTRACTORS, INC., ET AL (LIEN PERFECTION; CITY NAMED A PARTY SINCE IT HAS DEED OF TRUST)

The City Manager said the City was served with lawsuits involving Edgar Joe Durham, d/b/a Woodworking and Contracting vs. Blosam Contractors, Inc., et al (lien perfection; City named a party since it has Deed of Trust) and William A. Stewart, d/b/a Superior Paint vs. Blosam Contractors, Inc., et al (lien perfection, City named a party since it has Deed of Trust).

Mayor Bissette referred the lawsuits to the Corporation Counsel for investigation and recommendation.

ADJOURNMENT

Upon motion, the meeting adjourned at 6:00 p.m.

MAYOR

William A. Roberts
CITY CLERK

Tuesday - April 5, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell Martin, and Walter Boland; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Vice-Mayor Kenneth M. Michalove

INVOCATION

The invocation was given by Mayor Bissette.

APPROVAL OF MINUTES - MARCH 29, 1988

Mayor Bissette announced the approval of the minutes of the March 29, 1988 meeting as submitted.

I. PROCLAMATIONS:

II. PUBLIC HEARINGS:

III. OLD BUSINESS:

A. Ordinance No. 1684 - Second reading of an ordinance amending Section 18-12 of the Code of Ordinances of the City of Asheville regulating noise.

Mayor Bissette said this ordinance will amend the noise ordinance so as to regulate noise level emissions associated with automobile racing and related events. This ordinance passed on second reading on March 29, 1988.

Mike Moore, Attorney representing the Asheville Speedway, requested an amendment to the ordinance allowing for one additional practice session per year for special NASCAR events.

After discussion, it was determined that the City Attorney and Mike Moore could review the request and submit language that could be included in the ordinance prior to the third reading.

On a roll call vote of 6-0, Ordinance No. 1684 passed on second reading.

IV. NEW BUSINESS:

A. Resolution No. 88-57 - Resolution authorizing the City Manager to execute on behalf of the City of Asheville an agreement and any amendments thereto with G. Carroll Hughes, AIA, t/d/b/a, Spaceplan for Architectural services for the construction of a New Public Works Facility.

Mayor Bissette requested that he be excused from discussion and vote on the contract due to a conflict of interest. He said his law firm represents Mr. Carroll Hughes.

Councilman Price moved to excuse Mayor Bissette from discussion and vote on the contract with G. Carroll Hughes relative to the construction of a new Public Works Facility. This motion was seconded by Councilman Frank and carried unanimously.

The City Manager said an evaluation/selection committee received nine proposals for the services of an architectural consultant for the construction of a new Public Works facility. G. Carroll Hughes, Spaceplan, was ranked as the firm best suited for this project.

Upon inquiry of Ralph Bishop, the City Manager said the facility would be built on South Charlotte Street at a cost of approximately $2 million with the architectural consultant fees being $186,000.

Upon motion of Councilman Boland, seconded by Councilman Martin, Resolution No. 88-57 was unanimously adopted.

Resolution Book No. 17 Page No. 125

V. CONSENT:

A. Approval of bid for one (1) refuse collection vehicle - truck with Packer Body for Public Works Department, Sanitation Division.

SUMMARY: Award of bid for one (1) refuse collection vehicle - truck with Packer Body is recommended to the low bidder, Western Carolina Truck Center, Inc., Asheville, North Carolina, in the amount of $89,248.49.

(Bid Summary available in the Office of the City Clerk)

B. Resolution No. 88-58 - Resolution appointing member to Board of Electrical Examiners.

SUMMARY: This resolution will appoint Harvey Burleson as a member of the Board of Electrical Examiners.

Resolution Book No. 17 Page No. 126

C. Resolution No. 88-59 - Resolution adopting the Capital Improvements Program for Fiscal Year 1988/89.

SUMMARY: This resolution will adopt a Capital Improvements Program for Fiscal Years 1988/89 - 1993/94. Total Appropriation of $83,789,437 from fiscal years 1988/89 to 1993/94 to fund necessary capital improvements. Revenues provided in the various capital reserve funds.

Resolution Book No. 17 Page No. 127

Upon motion of Councilman Frank, seconded by Councilman Price, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

CLAIMS - ROBERTA ERICKSON (WATER) - HARRY McCOY (WATER) - VICK COFFEY (WATER)- OPAL MANN (SEWER)

The City Manager presented claims received from Roberta Erickson, Harry McCoy, Vic Coffey, and O[illegible] Mann.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP - OBTAINING CITY RECORDS - ASHEVILLE POLICE DEPARTMENT AND LOTTERY SALES

Ralph Bishop again spoke to members of Council relative to his difficulty in obtaining city records, the Asheville Police Department and lottery sales in the City of Asheville.

ADJOURNMENT:

Upon motion, the meeting adjourned at 4:45 p.m.

MAYOR

CITY CLERK

//3// Tuesday - April 12, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Vice-Mayor Michalove, Councilman Walter Boland and Councilman Russell Martin

INVOCATION

The invocation was given by Councilman Frank.

APPROVAL OF MINUTES - APRIL 5, 1988

Mayor Bissette announced the approval of the minutes of the April 5, 1988 meeting as submitted.

I. PROCLAMATIONS:

A. Resolution No. 88-60 - Resolution honoring A C Reynolds High School Men's Basketball Team, 4-A State Championship 1987-88.

Mayor Bissette said the Rockets of A C Reynolds High School scored victory over Richmond County High School winning the State 4-A Championship Title, completing their 1987-88 season with a school record of 27 victories.

Mayor Bissette presented a copy of the resolution to each member of the A C Reynolds High School Men's Basketball Team and its coaches.

Resolution Book No. 17 Page No. 128

B. Proclamation - "Victims' Rights Week" - April 17 - 23, 1988

Mayor Bissette read the proclamation and presented a copy to Captain Will Annarino and Jan Phillips from The Victim Assistance Unit of the Asheville Police Department.

C. Proclamation - "Vocational Industrial Clubs of America Week" - April 10 - 16, 1988

Mayor Bissette read the proclamation and presented a copy to Carol E. Weir, Vocational Director for the Asheville City Schools and to Bill Teague, Vocational Director for the Buncombe County Schools.

D. Proclamation -"Women's Conference 1988 - Pathways to Progress" - April 22 and 23, 1988

Mayor Bissette read a proclamation proclaiming April 22 and 23, 1988 as "Women's Conference 1988 - Pathways to Progress".

Councilman Frank and Councilman Price commented on the activities taking place during the Women's Conference 1988.

II. PUBLIC HEARINGS:

A. Public hearing relative to closing First Street between Wanoca Avenue and Unaka Avenue.

Resolution No. 88-61 - Resolution to close First Street between Wanoca Avenue and Unaka Avenue in the City of Asheville, North Carolina

Mayor Bissette said a petition has been received from the property owners along a portion of First Street, requesting that a portion of First Street be closed as a public street right-of-way.

Mayor Bissette opened the public hearing at 4:34 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

The City Manager said this road is an unopened and unimproved road. He said the city staff has recommended the closing of the road with the stipulation that utility easements be obtained.

Mayor Bissette closed the public hearing at 4:35 p.m.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 88-61 was unanimously adopted.

Resolution Book No. 17 Page No. 129-130

B. Public hearing relative to rezoning property located at 177 Brickyard Road.

An Ordinance amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville," as amended, petition of Mr. Carl Chambers, property located at 177 Brickyard Road.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting on March 2, 1988, reviewed the petition of Mr. Carl Chambers that Lot 22, Sheet 12, Ward 12 (177 Brickyard Road) be rezoned from R-2 Residential District to R-5 Residential District. Commission recommended approval of the petition.

Mayor Bissette opened the public hearing at 4:36 p.m.

The City Clerk presented the notice to the public setting the time and date of the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the petitioner requested the rezoning for the purpose of subdividing a lot for a single family residence.

Mayor Bissette closed the public hearing at 4:40 p.m.

Councilman Price moved for the adoption of Ordinance No. 1685. This motion was seconded by Councilman Frank.

On a roll call vote of 4-0, Ordinance No. 1685 passed on first reading.

C. **Public hearing relative to amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville" as amended, Section 30-3-14, Landscape and Buffering Requirements.**

Ordinance No. 1686 - An Ordinance amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville" as amended (Wording Amendment - Section 30-3-14. Buffering)

Mayor Bissette said this ordinance will amend Ordinance No. 322 by creating a new Section 30-3-14, Landscape and Buffering Requirements.

Mayor Bissette opened the public hearing at 4:41 p.m.

The City Clerk presented the notice to the public setting the time and date of the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said this amendment will "fine tune" the current buffering ordinance.

Al Kopf, from the Planning Division, said the current buffering ordinance has been in place for two years and

has had a substantial environmental impact on the community. He reviewed the proposed revisions to the current ordinance stating that many of the changes are minor. He said one of the substantial changes is the creation of a new section to provide the planning staff flexibility in dealing with special circumstances. He said during the three public hearings held by the Planning and Zoning Commission there was no opposition expressed.

Mike Plemmons said he had not heard of the public hearings held by the Planning and Zoning Commission. However, a representative from the Home Builders Association is present at the meeting.

George Jenson, Engineer, pointed out several provisions in the ordinance which Council should address, mainly dealing with clarification from a designer's standpoint. He requested that Council instruct the city staff to come up with more specific language.

June Grant, local realtor, also spoke relative to the proposed amendments as it relates to the Historic Districts and developments abutting residential properties.

Mayor Bissette noted that notices were mailed to local organizations that might be affected by the buffering/landscape ordinance.

Mayor Bissette closed the public hearing at 5:26 p.m.

Councilman Price moved for the adoption of Ordinance No. 1686 with the stipulation that Section 4(d) be changed to eliminate the word "morals" and that Section f(5) be changed to read "Unless buffering is required" in lieu of "unless more extensive landscaping is required"and further that the Planning Staff work with Mr. Jenson on more specific language to include in the ordinance prior to the third reading. This motion was seconded by Councilman Frank.

On a roll call vote of 4-0, Ordinance No. 1684 passed on first reading.

III. OLD BUSINESS:

A. Ordinance No. 1684 - Third reading of an ordinance amending Section 18-12 of the Code of Ordinances of the City of Asheville regulating noise.

Mayor Bissette said this ordinance will amend the noise ordinance so as to regulate noise level emissions associated with automobile racing and

related events. This ordinance passed on second reading on March 29, 1988.

The Corporation Counsel suggested an amendment to Section 2(16)(iii)(d) to include a sentence to read as follows: "One additional practice session per race track per year shall be allowed during the same hours on a date preceding by not more than two (2) weeks the first competition event of the year, subject to the notice provisions set forth hereinafter."

IV. NEW BUSINESS:

V. CONSENT:

A. Scheduling public hearing relative to changing name of Tower Road to Summerlin Road for May 17, 1988.

SUMMARY: Mr. Dick Cullom, Director of Operations, Radio Station WWNC, has requested that the name of the road leading to the station by changed from Tower Road to Summerlin Road in memory of the late Sheldon Summerlin.

B. Resolution No. 88-62 - Resolution directing the City Clerk to investigate validity of annexation petition (V.F.W. Post #891 on New Leicester Highway).

SUMMARY: G.S. 160A-58.1 requires that the City Council instruct the City Clerk to investigate the validity of a petition for a non-contiguous annexation. The V.F.W. Post #891 on New Leicester Highway is requesting annexation.

Resolution Book No. 17 Page No. 131

C. Resolution No. 88-63 - Resolution authorizing the City Manager to execute a contract extension with Traffic Systems, Inc. for downtown signals.

SUMMARY: This action will authorize a contract extension for the purpose of updating traffic data, redeveloping system timing plans and expanding management services for the installation of the new Downtown Closed-Loop Signal System. The contract extension will allow for the correction of invalid timing parameters, provide for additional testing and field supervision of equipment installation and allow project to stay on schedule with installation beginning in May.

Upon motion of Councilman Frank, seconded by Councilman Price, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

Resolution No. 88-64 - Resolution authorizing the City Manager to sign a contract with Land Design/Research, Inc. for market analysis of Downtown Asheville

The City Manager said professional market analysis can produce information which will be extremely helpful in the revitalization of downtown. Six firms submitted proposals responding the City's request for proposals. The Downtown Commission recommends the firm of Land Design/Research, Inc. He said the City had budgeted $40,000 for the project and the proposal was for $62,500. He said the Asheville Area Economic Development Partnership has approved funding the remaining $22,500 from appropriations from the private sector.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 88-64 was unanimously adopted.

JOHN MIDGETT - NORTH CAROLINA CHAPTER OF POLICE BENEVOLENT ASSOCIATION

John Midgett with the North Carolina Chapter of the Police Benevolent Association said he wanted to come to Council to clear up a discrepancy that he felt Council has regarding the association. He said the association is not a union and is only action in retired police officer's benefits and to create a professional concept of law enforcement. He said the association also provides support in some disciplinary actions on a case by case basis.

MIKE PLEMMONS - PRIVILEGE LICENSES

Mike Plemmons said he felt Council should take a close look at the proposed privilege license ordinance since the Director of Finance had commented that the costs could increase from 150%-300%.

RALPH BISHOP - SEEKING REDRESS FROM COUNCIL

Ralph Bishop again spoke to members of Council relative to right to seek redress at the Council meeting and his right to address Council members during the pre-council work sessions.

ADJOURNMENT:

Upon motion, the meeting adjourned at 6:00 p. m.

MAYOR

William F. Wolcott
CITY CLERK

Tuesday - April 19, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, and Russell Martin, Acting Corporation Counsel Pam McGrayne; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Walter R. Boland and Corporation Counsel William F. Slawter

INVOCATION

The invocation was given by Councilman Bratton.

APPROVAL OF MINUTES - APRIL 12, 1988 MEETING

Mayor Bissette announced the approval of the minutes of the April 12, 1988 meeting as submitted.

I. PROCLAMATIONS:

A. Proclamation - Professional Secretaries Week - April 24 - 30, 1988

Mayor Bissette read the proclamation and presented a copy to Sandra Fowler, CPS, President of Asheville Chapter of Professional Secretaries International, Martha Capps and Henrietta Griffin.

B. Proclamation - "Consumer's Week" - April 24 - 30, 1988

Mayor Bissette read the proclamation and presented a copy to Craig LaRoche.

II. PUBLIC HEARINGS:

A. Public hearing relative to closing Parkwood Avenue, Oakwood Street, Oakwood Place (a/k/a Parkwood Place) and a portion of Green Briar Road Extension.

Mayor Bissette said a petition has been filed by R.B.R. & S.T., a North Carolina Limited Partnership, requesting that Parkwood Avenue, Oakwood Street, Oakwood Place (a/k/a Parkwood Place) and a portion of Green Briar Road Extension be permanently closed to the public use. All streets are on a certain 14.54 acre tract entitled "West Terrace Apartments, Inc."

Mayor Bissette opened the public hearing at 4:26 p. m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Mayor Bissette said a request was received from the attorney involved in the closing that the public hearing be continued until May 10, 1988 due to a misunderstanding relative to the posting of the streets proposed to be closed. He said this continuance would give the attorney an opportunity to post the streets in question as required by the N. C. General Statute.

Councilman Bratton moved to continue the public hearing relative to closing Parkwood Avenue, Oakwood Street, Oakwood Place (a/k/a Parkwood Place) and a portion of Green Briar Road Extension until May 10, 1988 without further advertisement. This motion was seconded by Councilman Martin and carried unanimously.

III. OLD BUSINESS:

A. Ordinance No. 1685 - Second reading of an ordinance amending Ordinance No. 322, known as "An Ordinance providing for the Zoning of the City of Asheville," as amended, rezoning property located at 177 Brickyard Road.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting on March 2, 1988, reviewed the petition of Mr. Carl Chambers that Lot 22, Sheet 12, Ward 12 (177 Brickyard Road) be rezoned from R-2 Residential District to R-5 Residential District. Commission recommended approval of the petition. This ordinance passed on first reading on April 12, 1988.

Mayor Bissette said this ordinance was previously read on first reading and will not be reread in its entirety.

On a roll call vote of 6-0, Ordinance No. 1685 passed on second reading.

B. Ordinance No. 1686 - Second reading of an ordinance amending Ordinance No. 322, known as "An ordinance providing for the Zoning of the City of Asheville," as amended. (Wording Amendment - Section 30-3-14. Buffering)

Mayor Bissette said this ordinance will amend Ordinance No. 322 by creating a new Section 30-3-14, Landscape and Buffering Requirements. This ordinance was read on first reading on April 12, 1988.

Mayor Bissette said this ordinance was previously read on first reading and will not be reread in its entirety.

Al Kopf, from the Planning Department, reviewed the two revisions incorporated in the ordinance during the first reading. He said the planning staff was also requested to work with Mr. George Jenson, Engineer, relative to including language to give developers incentives to preserve existing trees. He said as an interim solution it is suggested that the ordinance be amended to provide that every 2" of diameter of existing trees that is preserved that this can be substituted for one required tree. He said this would also apply to street trees as well as parking lots. Basically, that existing buffering can be applied to required buffering. A discussion was held relative to having this provision apply to trees up to 30". It was decided that this language could be incorporated into the ordinance prior to the third reading.

George Jenson, Engineer, said he felt there should be some economic trade-off for developers saving large trees in parking lot areas. He suggested that for every 15 trees saved that one required space be deleted. He said a large building area could be taken up by the requirement of trees. He also suggested that under the maintenance of landscaping that the requirement for replacing unhealthy plants within thirty (30) days include language that states "weather permitting".

June Grant, local realtor, again spoke relative to the need to address developments within Historic Districts and abutments on residential properties. She gave a hypothetical example of how these requirements could effectively reduce a developers building space, costing the developer a sizeable amount of money, without compensation.

Verl Emrick, Director of Planning, said these amendments are proposed in an effort to recognize specific circumstances and to reduce the number of steps and conditions a developer has to go through in getting a group development approved.

On a roll call vote of 6-0, Ordinance No. 1686 passed on second reading.

IV. CONSENT:

A. **Resolution No. 88-65 - Resolution authorizing the City Manager to execute an agreement with Terry Brothers Construction Company, Inc., for the construction of the Caledonia Road Sanitary Sewer Project.**

SUMMARY: This project involves the installation of approximately nineteen hundred linear feet of sanitary sewer on Caledonia Road. Bids were opened on this project on March 29, 1988 and the lowest responsible bidder was Terry Brothers Construction Company, Inc., in the amount of $67,036.00. It is recommended that the City Manager is authorized to execute an agreement with Terry Brothers Construction Company, Inc. for this project.

Resolution Book No. 17 Page No. 134

B. Resolution No. 88-66 - Resolution authorizing the Mayor of the City of Asheville to execute easement in favor of the Carolina Power and Light Company for property on Walnut Street and Rankin Avenue for the new Rankin Street Parking Garage.

SUMMARY: Carolina Power and Light Company has requested that the City of Asheville execute a right-of-way easement on property belonging to the City of Asheville on Walnut Street for the purpose of locating an underground electric line at the new Rankin Avenue Parking Deck.

Resolution Book No. 17 Page No. 135

C. Scheduling public hearing relative to Master Plan of UNC-Asheville for May 10, 1988.

SUMMARY: The Asheville Planning and Zoning Commission at a meeting on April 6, 1988, reviewed the Master Plan of UNC-Asheville and voted unanimously to endorse the Master Plan with the recommendation that both car and foot access to Belk Theatre and Carmichael Lecture Hall be considered for incorporation into the plan.

D. Scheduling public hearing relative to amending Section 30-7-1. Conditional Uses. K. of Ordinance No. 322, known as "An Ordinance providing for the Zoning of the City of Asheville, as amended" for May 17, 1988.

SUMMARY: Per City Council's request of March 8, 1988, the Asheville Planning and Zoning Commission on April 6, 1988, considered a proposed wording amendment to the Asheville Zoning Ordinance, Section 30-7-1. Conditional Uses., Item K. to add Haywood Road to the list of thoroughfares permitting professional offices in the R-3 District

adjacent to commercial and industrial zones. Commission unanimously recommended this amendment to City Council.

E. **Scheduling public hearing relative to approval of final subdivision plat for Lornelle Place for May 3, 1988.**

SUMMARY: The Asheville Planning and Zoning Commission on January 14, 1987, approved the preliminary plat subject to: Board of Adjustment granting a variance from the 100' required lot width on Lots 3 and 4, and City Council granting a variance from 50' to 40' on width of road and cul-de-sac. The Board of Adjustment granted the lot width variance on March 9, 1987. City Council granted the variance on the road and cul-de-sac by Resolution on 9-1-87. The final plat of Lornelle Place is now being presented for approval.

Upon motion of Councilman Frank, seconded by Vice-Mayor Michalove, the consent agenda was unanimously approved.

V. OTHER BUSINESS:

SITE PLAN OF BEAVER LAKE VILLAS (ELLEN GOLDSTEIN PROJECT)

Councilman Martin moved to remand the site plan for the Beaver Lake Villas (Ellen Goldstein's Project on Long Street) to the Planning and Zoning Commission and that the site plan be considered again on May 17, 1988. This motion was seconded by Councilman Price and carried unanimously.

CONTINUATION OF PUBLIC HEARING RELATIVE TO CLOSING A PORTION OF SYRLIN STREET REQUESTED BY ELLEN GOLDSTEIN

Councilman Frank moved to continue the public hearing relative to closing a portion of Syrlin Street, requested by Ellen Goldstein from April 19, 1988 until May 17, 1988 giving Council meembers an opportunity to review the Beaver Lake Villas Site plan. This motion was seconded by Councilman Price and carried unanimously.

VI. NEW BUSINESS:

A. **Resolution No. 88-67 - Resolution authorizing the Mayor to sign a contract with the Neighborhood Reinvestment Corporation.**

Mayor Bissette said this agreement with Neighborhood Reinvestment Corporation will provide for the initial

phase of development of a Neighborhood Housing Services program for revitalizing the Montford neighborhood.

Marvin Vierra, Community Development Director, highlighted the details of the agreement with Neighborhood Reinvestment Corporation, stating that the agreement commits the City of Asheville to partially funding the project for the Montford area. He said the city staff has been working with the Neighborhood Reinvestment Corporation for about two and one-half years in an attempt to get this service implemented in the Montford area.

After a brief discussion, Vice-Mayor Michalove moved for the adoption of Resolution No. 88-67. This motion was seconded by Councilman Price and carried unanimously.

Resolution Book No. 17 Page No. 136

CLAIMS - FOREST BEACHBOARD (PARKS) - RHONDA DILLINGHAM (PARKS) - JACQUELINE BURRELL (STREETS)

The City Manager presented claims received from Forest Beachboard, Rhonda Dillingham, and Jacqueline Burrell.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

LAWSUITS - MOSER, INC. V. PACK PLAZA ASSOCIATES LIMITED PARTNERSHIP, ET AL (LIEN PERFECTION) - JENNINGS GLASS CO., INC. V. BLOSAM CONTRACTORS, INC., ET AL (LIEN PERFECTION) - E. LUKE GREENE COMPANY, INC., V. BLOSAM CONTRACTORS, INC., ET AL (LIEN PERFECTION) - W. R. McCLAIN, INC., V. BLOSAM CONTRACTORS, INC., ET AL (LIEN PERFECTION) - ROBIN LYLES V. PATSY MARTIN V. CITY (AUTOMOBILE ACCIDENT)

The City Manager said the City was served with lawsuits involving Moser, Inc., vs. Pack Plaza Associates Limited Partnership, et al (lien perfection; City named a party since it has a Deed of Trust); Jennings Glass Company, Inc. v. Blosam Contractors, Inc., et al (lien perfection; City named a party since it has a Deed of Trust); E. Luke Greene Company, Inc. v. Blosam Contractors, Inc., et al (lien perfection; City named a party since it has a Deed of Trust); W. R. McClain, Inc., v. Blosam Contractors, Inc., et al (lien perfection; City named a party since it has a Deed of Trust); Robin Lyles v. Patsy Martin v. City (automobile accident).

Mayor Bissette referred the lawsuits to the Corporation Counsel for investigation and recommendation.

COUNCILMAN MARTIN - COMMENDATION FOR FINANCE DEPARTMENT

Councilman Martin said he has been reviewing the investments that the City of Asheville makes through the Finance Director, Larry Fisher. He said in his opinion the Finance Department is "right on top of everything" with the City's investments, the rates received by the City are good, and he commends the department for making such diligent decisions.

CITY MANAGER - REPORT ON WALKAMERICA 1988 COMPARED TO 1987

The City Manager said during Walkamerica 1987 the City of Asheville had 26 participants with total donations of $625.00 with 24 walkers and 2 breakfast helpers. He said during Walkamerica 1988 the City of Asheville had 107 participants with total donations of $2,776.55 as of 4/18/88 (money is still coming in); 152 signed up for the walk, but 107 actually turned in money envelopes. He said the City of Asheville's participation in Walkamerica 1988 showed a 411% improvement in participation and a 443% improvement in total contributions over Walkamerica 1987.

RALPH BISHOP - RIGHT TO SPEAK DURING PRE-COUNCIL WORK SESSIONS

Ralph Bishop again spoke relative to right to address Councilmembers during the Pre-Council Work sessions. He said he felt Vice-Mayor Michalove did not have the right to stop him from commenting during these sessions since the Mayor was in charge of the meetings. He said in his opinion Section 9 of the City Charter allows him to speak during these sessions as long as he is not disruptive.

ADJOURNMENT:

Upon motion, the meeting adjourned at 5:30 p.m.

MAYOR

CITY CLERK

Tuesday - April 26, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell Martin, and Walter Boland; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Deputy City Clerk Carol Hensley.

Absent: Associate City Manager/City Clerk William F. Wolcott, Jr.

INVOCATION

The invocation was given by Vice-Mayor Michalove.

APPROVAL OF MINUTES - APRIL 19, 1988 MEETING

Mayor Bissette announced the approval of the minutes of the April 19, 1988 meeting as submitted.

I. PROCLAMATIONS:

A. Proclamation - "Respect for Law Week" - May 1 - 7, 1988

Mayor Bissette read the proclamation and presented it to Sgt. Herb Watts, with the Asheville Police Department on behalf of the Optimist Club.

Sgt. Watts invited all Council members, the City Manager and the Assistant City Manager to a "Respect for Law Week" luncheon to be held at the Sheraton Motor Inn on Thursday, May 5, 1988 at 12:20 P.M.

B. Proclamation - Clean Streams Day - Saturday, April 30, 1988

Mayor Bissette read the proclamation and presented it to LaRue Bolick with Quality Forward.

LaRue Bolick said over 1,000 people would be working in the tributaries of the French Broad River during Clean Streams Day.

C. Proclamation - "Glad Bag-A-Thon Day" - Saturday, April 23, 1988.

Mayor Bissette read the proclamation and presented it to LaRue Bolick with Quality Forward.

LaRue Bolick said during the Bag-A-Thon 8 tons of trash was picked up by over 1,000 people and 1 ton of trash was picked up from the Swannanoa River. She thanked the City Council, city employees, County of Buncombe, the City of Asheville Sanitation Department, and the North Carolina Department of Transportation for their efforts during Bag-A-Thon Day.

JOHN WINKENWERDER, CHAIRMAN OF TOURISM DEVELOPMENT AUTHORITY - LITTER

John Winkenwerder, Chairman of the Tourism Development Authority, said the Authority had discussed the problem with litter in the City. He said millions of dollars are spent to entice tourists each year and then the City still has a severe litter problem. He asked what the Tourism Development Authority could do to get involved with cleaning up the litter or what the City of Asheville could do to have a "crack down" on the enforcement of the litter ordinance. He said he felt if there was a "crack down" of making arrests and fining the ones who litter the problem would be less severe. He said while visiting many main tourist spots he found that these places did not have a litter problem.

Councilman Bratton said during the Council Retreat the litter problem was listed as Council's number one priority. She said she felt the ordinance basically needs enforcement.

Councilman Frank said the Intergovernmental Services Committee will also be discussing the litter problem and the Litter Control Officer.

Councilman Boland said he felt some type of beautification program, with the help of the Western North Carolina Development Association, could set in motion a major clean up city wide with neighborhood groups participating.

Assistant City Manager Charles Penny said he had met with community groups and Western North Carolina Development Association in an effort to start such a program. He said he would know by May 15, 1988 if there is interest in such a program since the entry date for competing in the beautification contest is May 15, 1988. He said monetary awards would be given to the winners in the contest.

C. **Proclamation - Volunteer Recognition Day - April 26, 1988**

Mayor Bissette read the proclamation. Ray Kisiah introduced Mr. John Woods, President of the Ambassadors

Club of Asheville and members of the club as Volunteers of the Year. He said the Ambassadors Club prepares Thanksgiving dinner at the Senior Opportunity Center, furnishes coffee for the center and holds an annual picnic for youngsters each year.

Mayor Bissette said the proclamation would be presented to the Ambassadors Club of Asheville at the annual Volunteers Award dinner tonight at 6:30 P.M. at the Senior Opportunity Center.

II. PUBLIC HEARINGS:

III. OLD BUSINESS:

A. Ordinance No. 1685 - Third reading of an ordinance amending Ordinance No. 322, known as "An Ordinance providing for the Zoning of the City of Asheville," as amended, rezoning property located at 177 Brickyard Road.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting on March 2, 1988, reviewed the petition of Mr. Carl Chambers that Lot 22, Sheet 12, Ward 12 (177 Brickyard Road) be rezoned from R-2 Residential District to R-5 Residential District. Commission recommended approval of the petition. This ordinance passed on first reading on April 12, 1988 and on second reading on April 19, 1988.

Mayor Bissette said this ordinance was previously read on first and second readings and will not be read in its entirety.

On a roll call vote of 7-0, Ordinance No. 1685 passed on third and final reading.

Ordinance Book No. 11 Page No. 255

B. Ordinance No. 1686 - Third reading of an ordinance amending Ordinance No. 322, known as "An ordinance providing for the Zoning of the City of Asheville," as amended. (Wording Amendment - Section 30-3-14. Buffering)

Mayor Bissette said this ordinance will amend Ordinance No. 322 by creating a new Section 30-3-14, Landscape and Buffering Requirements. This ordinance was read on first reading on April 12, 1988 and on second reading on April 19, 1988.

Al Kopf, from the Planning Department, said the planning staff had reviewed the changes recommended by George Jenson during the second reading of the ordinance. He said staff agrees that under the maintenance of

landscaping that the requirement for replacing unhealthy plants within thirty (30) days include language that states "weather and season permitting." He said staff also reviewed the request for reducing the number of parking spaces required to compensate for the requirement for planting of trees. He said staff feels this should be studied during the review of the total concept of the zoning ordinance. He said staff also reviewed the request for an incentive to encourage the preservation of trees. He said staff recommends that the ordinance remain as it is now written to evaluate each group development on a case by case basis to allow flexibility. However, he presented two other alternatives to providing incentives to encourage the preservation of trees.

Upon inquiry of Councilman Martin, Mr. Kopf said the criteria the Planning Director would use on the case by case basis would be the location, size, and health of the existing trees, the area involved, and the aesthetics.

Vice-Mayor Michalove said he felt it would be more practical to review each development on a case by case basis.

After discussion, Councilman Price moved to amend Ordinance No.1686, Section I (4) to read "Unhealthy or dead plants shall be promptly replaced within thirty (30) days or as soon thereafter weather and/or season permitting not to exceed one hundred twenty (120) days. This motion was seconded by Councilman Martin and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1686 passed on third and final reading.

Complete text of Ordinance No. 1686 will be found in Ordinance Book No. 11 at page 256-261.

IV. NEW BUSINESS:

A. Ordinance No. 1687 - Ordinance amending Ordinance No. 1567 known as an ordinance establishing the Asheville Downtown Commission providing for an increase in the composition of the Commission.

Mayor Bissette said this amendment will increase the members appointed by City Council from the private sector of the community to five (5) members.

Councilman Frank moved for the adoption of Ordinance No. 1687. This motion was seconded by Vice-Mayor Michalove.

On a roll call vote of 7-0, Ordinance No. 1687 passed on first reading.

Vice-Mayor Michalove moved to suspend the rules and proceed to the second reading of Ordinance No. 1687. This motion was seconded by Councilman Frank and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1687 passed on second reading.

Vice-Mayor Michalove moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1687. This motion was seconded by Councilman Frank and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1687 passed on third and final reading.

Complete text of Ordinance No. 1687 will be found in **Ordinance Book 11 at page 262.**

B. **Resolution No. 88-68 - Resolution appointing members to the Asheville Downtown Commission. (Mark Rosenstein, Fred Ayers, Rob Pew)**

Mayor Bissette said this resolution will appoint Mark Rosenstein, Fred Ayers, and Rob Pew to the Asheville Downtown Commission, with Rob Pew serving as Chairman, as provided for in the new ordinance.

Upon motion of Vice-Mayor Michalove, seconded by Councilman Price, Resolution No. 88-68 was unanimously adopted.

Resolution Book No. 17 Page No. 137

V. CONSENT:

A. **Resolution No. 88-69 - Resolution authorizing the City Manager to execute an agreement between the City of Asheville and Poinsett Safety and Loss Prevention Services, for the purpose of providing loss prevention consultation to the City of Asheville under its self-insured workers' compensation program.**

SUMMARY: Poinsett Safety and Loss Prevention Services have provided this service to the City of Asheville for the past four years. They have made a responsible proposal to continue their services in this capacity at a fixed price over the next two years.

Resolution Book No. 17 Page No. 138

B. Resolution No. 88-70 - Resolution authorizing the City Manager to execute an agreement with the County of Buncombe and the Asheville Board of Education regarding the distribution of proceeds from the sale of tax lots owned by the City and the County.

SUMMARY: This agreement will provide for a method of distribution of the proceeds from those sales and future sales based upon the tax rate of each governmental unit.

Resolution Book No. 17 Page No. 139

Upon motion of Vice-Mayor Michalove, seconded by Councilman Price, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

CITY MANAGER COMMENTS - ANNEXATION CASE

The City Manager commended the Corporation Counsel and the Staff Attorney for their efforts during the recent annexation suit.

SUSAN PATTERSON AND JACQULINE SHOWER- CLAXTON SCHOOL PARENTS - COMMENTS RELATIVE TO ASHEVILLE SCHOOL BOARD

Susan Paterson and Jacquline Shower appeared before Council stating their discontent and concern relative to the Asheville School Board's unresponsiveness. She said parents at Claxton School have appeared before the Asheville School Board on several occasions in an attempt to get an answer relative to the reinstatement of the Alternative (Open-Education Concept) Program. They said they have received no response from the Board.

After discussion, Mayor Bissette advised Ms. Paterson and Ms. Shower that the only contact the Asheville City Council has with the Asheville School Board is the appointments to the Board. However, Council would write a letter to the Chairman of the School Board to let them know that Council had received their comments.

CLAIMS - MRS. DONALD HUTTON (SEWER) - JEFF FISHER (WATER) - JACK VAN WEBB, JR. (PARKS) - MARY BALLEW (WATER) - HOWARD TERRELL (WATER) - CURTIS BRIDGERS (STREETS)

The City Manager presented claims received from Mrs. Donald Hutton, Jeff Fisher, Jack Van Webb, Jr., Mary Ballew, Howard Terrell, and Curtis Bridgers.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP - LOTTERY SALES

Ralph Bishop again spoke to members of Council relative to lottery sales in the City of Asheville.

ADJOURNMENT:

Upon motion, the meeting adjourned at 5:45 p.m.

MAYOR

CITY CLERK

Tuesday - May 3, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell Martin, and Walter Boland; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Norma T. Price

INVOCATION

The invocation was given by Councilman Walter Boland.

APPROVAL OF MINUTES - APRIL 26, 1988 MEETING

Mayor Bissette announced the approval of the minutes of the April 26, 1988 meeting as submitted.

I. PROCLAMATIONS:

A. **Proclamation - Motorcycle Awareness Month - May, 1988.**

Mayor Bissette read the proclamation and presented the proclamation to Jim Biddix, President of the Buncombe County Chapter of the Concerned Bikers Association.

B. **Proclamation - Small Business Week - May 8 - 14, 1988.**

Mayor Bissette read the proclamation and presented the proclamation to Mike Demos, Chairman of the Chamber's Small Business Council.

II. PUBLIC HEARINGS:

A. **Public hearing relative to approval of final subdivision plat for Lornelle Place.**

Mayor Bissette said the City of Asheville Planning and Zoning Commission on January 14, 1987, approved the preliminary plat for the Lornelle Place subdivision subject to: Board of Adjustment granting a variance from the 100' required lot width on Lots 3 and 4, and City Council granting a variance from 50' to 40' on width of road and cul-de-sac. The Board of Adjustment granted the lot width variance on March 9, 1987. City Council granted the variance on the road and cul-de-sac by Resolution on 9-1-87. The final plat of Lornelle Place is now being presented for approval.

Mayor Bissette opened the public hearing at 4:26 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said all requirements have been met relative to the final subdivision plat. He said the developer is ready to record the final plat after Council's approval. He said the compaction test report has been submitted to the Department of Public Works.

Mayor Bissette closed the public hearing at 4:30 p.m.

Councilman Frank moved to approve the final subdivision plat for Lornelle Place. This motion was seconded by Vice-Mayor Michalove and carried unanimously.

III. OLD BUSINESS:

IV. NEW BUSINESS:

A. Resolution No. 88-71 - Resolution appointing members to the Zoning Board of Adjustment.

Mayor Bissette said this resolution will appoint Mr. Richard A. Bass and reappoint Hal F. Starnes and Rudy J. Stefanec as members to the Zoning Board of Adjustment to serve until January 21, 1991 or until their successors are duly appointed and qualified.

Upon motion of Councilman Martin, seconded by Vice-Mayor Michalove, Resolution No. 88-71 was unanimously adopted.

Resolution Book No. 17 Page No. 140

V. CONSENT:

VI. OTHER BUSINESS:

CLAIMS - MARIANNA METCALF (PARKS)

The City Manager presented a claim received from Marianna Metcalf.

Mayor Bissette referred the claim to the Corporation Counsel for investigation and recommendation.

LAWSUIT - DARRY MCMORRIS VS. CITY, TRANSIT AUTHORITY (AUTO ACCIDENT)

The City Manager said the city was served with a lawsuit involving Darry McMorris vs. City, Transit Authority relative to an automobile accident after exiting a bus.

Mayor Bissette referred the lawsuit to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP - REQUEST FOR VERBATIM MINUTES - APRIL 19, 1988

Ralph Bishop said at last week's meeting he had requested the Mayor to get a verbatim transcript of his comments during the April 19, 1988 meeting.

Mayor Bissette said he would listen to the tape and request that the Corporation Counsel research statutory records to determine what is actually required to be put in the minutes.

MONTFORD COMMUNITY CLUB - SPECIAL MEETING - 7:30 P.M.

Mayor Bissette reminded everyone of the special meeting at the Montford Community Club tonight at 7:30 p.m.

ADJOURNMENT

Councilman Frank moved to adjourn until the special meeting at Montford Community Club at 7:30 p.m. This motion was seconded by Councilman Martin and carried unanimously.

MAYOR

CITY CLERK

Tuesday - May 10, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell Martin, and Walter Boland; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Russell Martin.

APPROVAL OF MINUTES - MAY 3, 1988 MEETING

Mayor Bissette announced the approval of the minutes of the May 3, 1988 meeting as submitted.

I. PROCLAMATIONS:

A. Proclamation -"Tourism Week" - Week of May 15, 1988.

Mayor Bissette said Governor James Martin requested that the City of Asheville proclaim the week of May 15, 1988 as Tourism Week in the City of Asheville in relation to National Tourism Week and North Carolina Tourism Week.

Mayor Bissette made the proclamation and said a copy would be forwarded to the appropriate person.

B. Proclamation - "Nursing Home Week" - May 8 - 14, 1988

Mayor Bissette read the proclamation and presented a copy to Martha Smart, Director of the Aston Park Health Care Center.

C. Proclamation - "Law Enforcement Officers Week" - May 8 - 14, 1988

Mayor Bissette read the proclamation and said a copy would be forwarded to the Asheville Police Department.

II. PUBLIC HEARINGS:

A. Public hearing relative to endorsement of Master Plan of the University of North Carolina-Asheville.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting on April 6, 1988, reviewed the Master Plan of UNC-Asheville and voted unanimously to endorse the Master Plan with the recommendation that both car and foot access to Belk Theatre and Carmichael Lecture Hall be considered for incorporation into the plan.

Mayor Bissette opened the public hearing at 4:24 p.m.

Verl Emrick, Director of Planning said the purpose of going through this process of endorsement is to have the project on record in order to have all bases covered as far as the development of the university is concerned.

Dr. David Brown, Chancellor for UNC-A, said the project is in accordance with all requirements of the City of Asheville.

At the request of Council, Dr. Brown outlined the components of the proposed retirement center and the conference center.

A discussion was held relative to the access to the developments.

Mr. Emrick said the city staff would be working closely with the university staff during the construction of the project to obtain both the goals of the university as well as the city.

Mayor Bissette closed the public hearing at 4:37 p.m.

Councilman Boland moved to endorse the Master Plan of the University of North Carolina-Asheville. This motion was seconded by Councilman Bratton and carried unanimously.

II. OLD BUSINESS:

A. Continuation of a public hearing relative to closing Parkwood Avenue, Oakwood Street, Oakwood Place (a/k/a Parkwood Place) and a portion of Green Briar Road Extension.

Resolution No. 88-72- Resolution to close Parkwood Avenue, Oakwood Street, Oakwood Place (a/k/a Parkwood Place) and a portion of Green Brair Road Extension

Mayor Bissette said a petition has been filed by R.B.R. & S.T., a North Carolina Limited Partnership,

requesting that Parkwood Avenue, Oakwood Street, Oakwood Place (a/k/a Parkwood Place) and a portion of Green Briar Road Extension be permanently closed to the public use. All streets are on a certain 14.54 acre tract entitled "West Terrace Apartments, Inc.

Mayor Bissette said this public hearing was continued from the April 19, 1988 meeting.

Mayor Bissette reopened the public hearing at 4:40 p.m.

Verl Emrick, Director of Planning, said the street closings are necessary due to the revamping of the West Terrace center complex in accordance with Phase III of the developer's plans.

Mayor Bissette said he had received comments from several individuals concerned about the closing of the streets which provide access to the Post Office Building located in the complex.

Stewart Coleman, developer of the West Terrace Center Complex, said the streets in the complex would be upgraded during Phase III of the project which would include a relocation of Parkwood Avenue and Green Brair Road Extension which currently serves the Post Office Building.

Members of Council questioned the closing of the streets until final plans for Phase III of the development are submitted and approved.

Councilman Price said she felt Council should be assured that access would be available in this area.

A discussion was held relative to the need to close the streets and as to how the streets would provide access after the development of Phase III. A question also arose as to whether or not Green Brair Road is a public street.

Gail McAlpine, who works with several doctors in the complex area, expressed concern that the only access to their offices is from Green Brair Road Extension. She questioned how the closings and the new development will affect their access.

Another individual appeared before Council to express his concerns about the closing of the major artery to the Post Office Building.

Stewart Coleman said he would coordinate the relocation of the streets in the complex with the City Engineering Department, Fire Department and the Police Department.

Mayor Bissette closed the public hearing at 5:22 p.m.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Vice-Mayor Michalove requested that he be excused from discussion and vote on the closing of the streets since his employer has an office in this area. Councilman Price moved that Vice-Mayor Michalove be excused from discussion and vote on the closing of the streets. This motion was seconded by Councilman Boland and carried unanimously.

Councilman Price moved for the adoption of Resolution No. 88-72 with the stipulations that the resolution exclude Parkwood Avenue and a section of Green Brair Road Extension. This motion was seconded by Councilman Frank and carried unanimously.

Mayor Bissette requested that Mr. Coleman coordinate the reconstruction of Parkwood Avenue with Mr. William F. Wolcott, Jr., the Associate City Manager. He said if Green Brair Road Extension is a dedicated street that the developer should come back to Council during Phase III of the project to discuss this particular street.

Resolution Book No. 17 Page No. 141-142

IV. NEW BUSINESS:

A. Resolution No. 88 -73 - Resolution establishing a fire protection contract with Skyland Fire District pursuant to annexation.

Mayor Bissette said the North Carolina law requires a good-faith effort on the part of an annexing city to contract with a fire district a portion of which the City is annexing. The proposed contract represents that good-faith effort. While most such contracts are simple five-year income-replacement contracts, this contract encompasses a management agreement between Asheville and Skyland that will result in maintenance of fire protection service in the annexed area that will be at least as good as pre-annexation service, and will result in management and operational assistance on a continuing

basis for the balance of Skyland's fire protection area. The principle effects of the contract would be (a) the transfer of all full-time Skyland personnel to City employment, and (b) maintenance of Skyland assets and managerial and training support for Skyland's firefighters by Asheville staff. This contract is based on good-faith efforts of both parties to prevent any negative impact on fire protection in either jurisdiction during the annexation process and after annexation is complete.

The City Manager said the contract was negotiated between the Chief of the Asheville Fire Department and the Chief of the Skyland Volunteer Fire Department. He said the contract was negotiated with professionalism in order to provide residents in the Skyland area with continued professional fire protection.

Chief Rukavina said the agreement was negotiated so that no one in the Skyland area will notice a change in fire protection. He expressed appreciation to all city officials who worked with the Skyland Volunteer Fire Department during this annexation process.

Chief Rukavina outlined the details of the agreement.

Upon motion of Councilman Bratton, seconded by Vice-Mayor Michalove, Resolution No. 88-73 was unanimously adopted.

Resolution Book No. 17 Page No. 143

B. Ordinance No. 1688 - Ordinance amending Section 28-81.3 and Section 28-81.4 of Article IV, Speed Regulations, of Chapter 28 of the Code of Ordinances of the City of Asheville reducing speed limits on Ambler Road and Lakeshore Drive.

Mayor Bissette said this action will reduce the speed limit, based on an engineering investigation, on Ambler Road from 35 mph to 25 mph, and on Lakeshore Drive from 35 mph to 30 mph.

Bob McDonald, Traffic Engineer, said he had received a petition from residents of Ambler Road requesting that the speed limit be reduced to 25 mph and the City Manager received a petition from the Lakeview Park Commission requesting a speed limit change on Lakeshore Drive from 35 mph to 25 mph. He said based on radar calculations, using the 10 mile per hour pace methodology there is justification to reduce the speed limit on Ambler Road to 25 mph. He said in the case of Lakeshore Drive, the lower limit of the pace speed was 30 mph and he would not

recommend going below that limit. He said this speed represents the beginning of the range in which the vast majority of motorists will observe the speed limit voluntarily, and enforcement can be directed to the minority of drivers who don't obey the speed limit.

Councilman Price said she had received calls from individuals who could not be present at the meeting who supported the Traffic Engineer's recommendation.

Councilman Martin said he lived in the Lakeshore Drive area and the residents in that area have desired a reduced speed limit for a number of years.

Councilman Bratton moved for the adoption of Ordinance No. 1688. This motion was seconded by Councilman Martin.

On a roll call vote of 7-0, Ordinance No. 1688 passed on first reading.

Vice-Mayor Michalove moved to suspend the rules and proceed to the second reading of Ordinance No. 1688. This motion was seconded by Councilman Martin and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1688 passed on second reading.

Mayor Bissette said the third reading of the ordinance would be held on May 17, 1988.

Councilman Bratton requested that Kenilworth Road speed limit be investigated. She suggested that a 25 mph speed limit be investigated.

Ordinance Book No. 11 Page No. 263

C. **Request for approval of wall signs at 30 Tunnel Road for Bishop's Food and Spirits.**

Mayor Bissette said the signs require the approval of Council pursuant to the Zoning Ordinance in that they will be situated closer than 600' from a limited access highway. This will be replacement of existing signs with minor modifications.

Verl Emrick, Director of Planning, presented the sign permit request. He said the wall signs would be used to replace existing signage. He said the free-standing sign would be outside the 600' limit and would not require approval from Council. He said the signs meet all requirements and is in the

spirit of the Sign Commission. He said he would recommend Council's approval of the sign permit.

Councilman Boland moved for the approval of the wall sign permit request at 30 Tunnel Road for Bishop's Food and Spirits. This motion was seconded by Councilman Martin and carried unanimously.

D. Request for approval of a wall sign and a free-standing sign at 295 West Haywood Street for Custom Audio and Electronics.

Mayor Bissette said the signs require the approval of Council pursuant to the Zoning Ordinance in that they will be situated closer than 600' from a limited access highway. This will be replacement of existing signs with minor modifications.

Verl Emrick, Director of Planning, said the signs meets all requirements and is in the spirit of the Sign Commission. He said the free-standing sign would be 6' tall and would be placed close to the dead-end of the street. He said the wall signs would be used to replace existing signage. He recommended approval of the sign permit.

Councilman Martin moved to approve the wall sign and free-standing sign permits for 295 West Haywood Street for Custome Audio and Electronics. This motion was seconded by Councilman Frank and carried unanimously.

V. CONSENT:

A. Resolution No. 88 - 74 - Resolution authorizing the Mayor to sign a contract with Metropolitan Sewerage District of Buncombe County, North Carolina for the Champion Finishing Company sewer siphon project.

SUMMARY: This contract is for the construction of temporary piping around the future bar screen vault for the Metropolitan Sewerage District for the Champion Finishing Company sewer siphon project.

Resolution Book No. 17 Page No. 144

B. Resolution No. 88 - 75 - Resolution to establish a policy for procurement of engineering services.

SUMMARY: The General Assembly of North Carolina has enacted a bill which requires state and local government to announce all

requirements for engineering services when the estimated engineering fee is in an amount more than $30,000. The attached resolution establishes such a policy within State requirements.

Resolution Book No. 17 Page No. 145

C. **Resolution No. 88-76 - Resolution authorizing submission of an application to HUD for Rental Rehabilitation Program funds.**

SUMMARY: This resolution is to authorize submission of an application to HUD for funds in the amount of $84,000 for Rental Rehabilitation Program assistance to investor owners for deferred payment loans to rehab at least 10 apartment units.

Resolution Book No. 17 Page No. 146

D. **Resolution No. 88-77 - Resolution appointing member to the Firemen's Relief Fund.**

SUMMARY: This resolution will appoint Donald O. Fowler as a member of the Firemen's Relief Fund to serve until his term expires on January 1, 1990 or until his successor is duly appointed and qualified.

Resolution Book No. 17 Page No. 147

E. **Scheduling of public hearing relative to the submission of final Statement of Community Development Objectives for FY 89 to Housing and Urban Development for May 24, 1988.**

SUMMARY: This action will authorize submission of CDBG entitlement application for 1988-89. Funding will be used as follows:

Hill St/Cherry St. (Head of Montford) Neighborhood Impvt.	$558,000
Neighborhood Housing Services Loan Pool	100,000
City-wide Housing Rehabilitation	125,000
Asheville-Buncombe Community Relations Council	14,000
Community Development Planning	50,000
Community Development Administration	123,000
Contingency	27,000
Total Budget	$997,000

F. **Scheduling of public hearing relative to Beaver Lake Villas - (Long-Syrlin Street Apartments) for May 24, 1988.**

SUMMARY: The Asheville Planning and Zoning Commission on May 4, 1988, reviewed and recommended approval of Beaver Lake Villas to be located on Long Street, subject to the following:
1) Compliance with Erosion Control Ordinance;
2) Compliance with Landscape Ordinance
3) Locating fire hydrant at entrance of Long Street; and
4) Recommendation of closing Syrlin Street north of Lockley Avenue.

G. **Resolution No. 88-78 - Resolution authorizing the City Manager to execute a negotiated settlement agreement by and between the City of Asheville and the Equal Employment Opportunity Commission.**

SUMMARY: The EEOC and the City have agreed upon the terms and conditions of a negotiated settlement agreement with regard to a "Letter of Violation" in regard to Charge No. 140871593.

Resolution Book No. 17 Page No. 148

Upon motion of Vice-Mayor Michalove, seconded by Councilman Frank, the consent agenda was unanimously approved.

OTHER BUSINESS:

CLAIMS - JAMES CARROLL (WATER) - PHIL GADDY (WATER) - MRS. KENNETH RAY (WATER) - ERNEST COCHRAN (WATER) - MRS. MELVIN MORTON (WATER) - VICKI McFEE (WATER)

The City Manager presented claims received from James Carroll, Phil Gaddy, Mrs. Kenneth Ray, Ernest Cochran, Mrs. Melvin Morton, and Vicki McFee.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

CHIEF OF FIRE DEPARTMENT JOHN RUKAVINA - STATUS REPORT ON 911 EMERGENCY NUMBER

Chief Rukavina of the Asheville Fire Department said the County is still in the process of collecting information to use in the data base for the 911 Emergency Number System. He said the proposed system concerns him in that individuals using the system will have to talk with several telecommunicators before their emergency reaches the appropriate agency. He said

in his opinion the only advantage to the proposed system would be that individuals can easily remember the 911 number. He said the system will offer no savings in time and could cause a time loss for an emergency. He said there also might be liabilities involved.

He said the Buncombe County Firefighters Association adopted a resolution in support of a county-wide communication system. He said if the 911 system is to be successful a unified approach is necessary in order to deal with emergencies.

He suggested that this proposal be carefully reviewed immediately because it is proposed that the system be up and operating within a year. He said he feared the community is on the way to a system that will not be workable.

Mayor Bissette suggested that a committee be established involving all parties to review all ramifications of the 911 emergency system.

Councilman Frank said the Intergovernmental Services Committee has been discussing the 911 Emergency System but to date no response has been received.

WILLIAM ROBINSON - 75 N. LIBERTY STREET - CHESTNUT/LIBERTY STREET

William Robinson of 75 N. Liberty Street, appeared before Council stating concerns with the Chestnut/Liberty Street Historic District. He said before the ordinance was adopted to create this district 64% of the residents in the area had presented a petition opposing the creation of the district. He said it is his understanding that at least six (6) members of the Council has to vote affirmatively in order for the ordinance to be adopted. He said this was not done. He asked Council if anything was going to be done to correct these deficiencies.

Mr. Robinson said since he owns his property, pays the taxes, and the mortgage, he resents having to get permission to do any improvements to his property.

Mayor Bissette informed Mr. Robinson that a vote was taken on the creation of the Chestnut/Liberty Street Historic District after extended discussions and numerous public hearings, giving everyone an opportunity to express their opinions. He said the ordinance passed on a 4-3 vote. He said the ordinance was later challenged by a law suit which is still pending. He said if the individual filing the law suit prevails Council will have to reconsider the ordinance.

Mr. Robinson asked if his property could be excluded from the ordinance.

Mayor Bissette informed Mr. Robinson that the ordinance would have to be amended to exclude his property which is a lengthy process.

The Corporation Counsel agreed with Mayor Bissette that the ordinance would have to amended and that the amendment would have to be approved by a state agency.

RALPH BISHOP - RIGHT TO HAVE HIS COMMENTS VERBATIM IN THE MINUTES - LOTTERY SALES

At the request of Ralph Bishop relative to his right to have his comments verbatim in the minutes, the Corporation Counsel read the following memorandum which was requested by members of Council:

MEMORANDUM TO: W. Louis Bissette, Jr., Mayor, and Members of the Asheville City Council

FROM: Bill Slawter, City Attorney

DATE: May 10, 1988

SUBJECT: Minutes of City Council Meetings

Section 11 of the City Charter provides that "the Clerk shall keep records of the proceedings of the Council and all final votes of the Council involving appropriations, expenditures of money or the enactment of ordinances shall be by yeas and nays and entered on the records." North Carolina General Statutes sec. 160A-72 goes on to state that "full and accurate minutes of the council proceedings shall be kept, and shall be open to the inspection of the public. The results of each vote shall be recorded in the minutes, and upon the request of any member of the council, the ayes and noes upon any question shall be taken" the provisions of N. C. Gen. Stat. sec. 160A-72 have been incorporated into City Council Rule of Procedure No. 29.

City Council Rule of Procedure No. 29 also provides that "tape recordings of the meeting will be kept for a period of one year. Anyone wishing a copy of verbatim statements made at a Council meeting shall make a written, signed request to the City Clerk stating exactly what statements they desire and shall pay a minimum of $5.00 or $2.00 per page or portion thereof for the transcript."

With regard to executive sessions, if some action is taken, the minutes should reflect that action. N. C. Gen. Stat. sec. 143-318.11 (d) specifically provides that minutes of an executive session may be withheld from public inspection so long as public inspection would frustrate the purpose of the executive session.

With regard to the requirement of N. C. Gen. Stat. sec. 160A-72 that "full and accurate" minutes of the Council meetings be kept, the statute does not define the detail that is required. There is a handbook published by the Institute of Government

which indicates that the minutes are sufficient if they identify the action taken by the Council and reflect any conditions necessary for the taking of the action, such as the presence of a quorum.

Please let me know if you have other questions.

BS:msb
CC: Douglas O. Bean, City Manager

Mr. Bishop requested a copy of the memorandum.

Mr. Bishop then commented on the lottery sales being conducted in the City of Asheville.

ADJOURNMENT:

Upon motion, the meeting adjourned at 6:30 p.m.

MAYOR

CITY CLERK

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Tuesday - May 17, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, and Russell Martin; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Walter R. Boland.

INVOCATION

The invocation was given by Councilman Norma Price.

APPROVAL OF MINUTES - MAY 10, 1988

Mayor Bissette announced the approval of the minutes of the May 10, 1988 meeting as submitted.

I. PROCLAMATIONS:

A. Proclamation - "Better Hearing and Speech Month" - May, 1988

Mayor Bissette read the proclamation which was requested by the Greater Asheville Audiologists and Speech Pathologists. He presented a copy to Dr. Bob MacPherson, Chief of Audiology at the VA Hospital and Mrs. Leatherwood from Thoms Rehabilitation Hospital.

II. PUBLIC HEARINGS:

A. Public hearing relative to amending the Zoning Ordinance - Section 30-7-1, Conditional Uses, adding Haywood Road under Item K. Professional Offices in R-3 District.

Ordinance No. 1689 - An Ordinance amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville," as amended (Wording Amendment - Section 30-7-1 Conditional Uses, Adding Haywood Road under Item K. Professional Office in R-3 District)

Mayor Bissette said per City Council's request of March 8, 1988, the Asheville Planning and Zoning Commission on April 6, 1988, considered a proposed wording amendment to the Asheville Zoning Ordinance, Section 30-7-1. Conditional Uses., Item K. to add Haywood Road to the

list of thoroughfares permitting professional offices in the R-3 District adjacent to commercial and industrial zones. Commission unanimously recommended this amendment to City Council.

Mayor Bissette opened the public hearing at 4:21 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said this action was instituted after Council received a petition from a property owner on State Street asking permission to use his property for a professional office building. He said the Planning and Zoning Commission reviewed the request and recommended that Haywood Road be under Item K. Professional Offices in R-3 Residential District in order to provide flexibility in the use of property in the Haywood Road area. He said under these provisions requests would be considered as Conditional Uses and reviewed by the Board of Adjustment.

Upon inquiry of Council, Mr. Emrick said this information would be disseminated to the property owner on State Street.

Mayor Bissette closed the public hearing at 4:24 p.m.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Martin moved for the adoption of Ordinance No. 1689. This motion was seconded by Vice-Mayor Michalove.

On a roll call vote of 6-0, Ordinance No. 1689 passed on first reading.

B. Public hearing relative to changing the name of Tower Road to Summerlin Road.

Resolution No. 88-79 - Resolution changing the name of Tower Road to Summerlin Road.

Mayor Bissette said Mr. Dick Cullom, Director of Operations, Radio Station WWNC, has requested that the name of the road leading to the station be changed from Tower Road to Summerlin Road in memory of the late Sheldon Summerlin, Manager, WWNC.

Mayor Bissette opened the public hearing at 4:26 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the request was reviewed by the Police, Fire, and Public Works Department and no conflicts in changing the name of Tower Road were reported. He said it would be his recommendation to support the name change.

Scotty Rhodarmer, with WWNC, spoke in support of the name change in memory of the late Sheldon Summerlin, Manager of WWNC. He said the residents on the road also support the change.

Mayor Bissette closed the public hearing at 4:28 p.m.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Bratton, seconded by Councilman Frank, Resolution No. 88-79 was unanimously adopted.

Resolution Book No. 17 Page No. 154

III. OLD BUSINESS:

A. Continuation of public hearing relative to closing a portion of Syrlin Street requested by Ellen Goldstein.

Mayor Bissette said a petition was received from Ellen Goldstein to close a portion of Syrlin Street, being all of that portion of Syrlin Street extending northward from the northern margin of Tax Lot 178 and Tax Lot 13-1/4 of Ward 9, Sheet 7, of the Buncombe County Tax Maps. Several public hearings have been held relative to this closing and the public hearing was continued until May 17, 1988.

Mayor Bissette said he felt it would be in everyone's interest to continue this public hearing until Ellen Goldstein's project, Beaver Lake Villas, is reviewed on May 24, 1988.

Councilman Frank moved to continue the public hearing relative to closing a portion of Syrlin Street requested by Ellen Goldstein until May 24, 1988 without further advertisement. This motion was seconded by Councilman Price and carried unanimously.

B. Ordinance No. 1688 - Third reading of an Ordinance amending Section 28-81.3 and Section 28-81.4 of Article IV, Speed Regulations, of Chapter 28 of the Code of Ordinances of the City of Asheville reducing speed limits on Ambler Road and Lakeshore Drive.

Mayor Bissette said this action will reduce the speed limit, based on an engineering investigation, on Ambler Road from 35 mph to 25 mph, and on Lakeshore Drive from 35 mph to 30 mph. This ordinance was read on first and second reading on May 10, 1988.

Charles Freeman, 33 Ambler Road, Vice-Chairman of the Beverly Hills Homeowners Association, said the Board of Directors and the residents in the area are in complete agreement with the speed limit change. He said this should improve the safety factors in the area.

On a roll call vote of 6-0, Ordinance No. 1668 passed on third and final reading.

Ordinance Book No. 11 Page No. 267

IV. NEW BUSINESS:

V. CONSENT:

A. Resolution No.88-80 - Resolution directing the City Clerk to investigate a petition received under G.S. 160A-58.1 to annex a non-contiguous area on Leicester Highway known as Dewey's Inc. property.

SUMMARY: The City of Asheville has received a petition from Ms. Judith A. Prozzo requesting annexation of a non-contiguous area known as Dewey's Inc. on Leicester Highway.

Resolution Book No. 17 Page No. 155

B. Resolution No. 88-81 - Resolution of intent to close a portion of Gudger Street and calling a public hearing for June 21, 1988.

SUMMARY: A petition has been filed by Asheville City Board of Education requesting that a portion of Gudger Street be permanently closed to the public use.

Resolution Book No. 17 Page No. 156-157

C. Resolution No. 88-82 - Resolution of intent to close Shawnee Trail and calling a public hearing for June 21, 1988.

SUMMARY: A petition has been filed by Centennial American Properties, Ltd. on behalf of The Litchfield Co. of South Carolina Ltd. Partnership requesting that Shawnee Trail be permanently closed to the public use.

Resolution Book No. 17 Page No. 158-159

D. Scheduling of public hearing relative to rezoning property at 27 Governors View Road requested by Smoky Mountain Petroleum Company for June 7, 1988.

SUMMARY: The Asheville Planning and Zoning Commission on May 4, 1988, reviewed and recommended approval of the petition of Smoky Mountain Petroleum Company that Ward 8, Sheet 15, Lot 98, and a portion of Lot 65 (27 Governors View Road), be rezoned from R-2 Residential District to CS Commercial Service District.

Upon motion of Vice-Mayor Michalove, seconded by Councilman Frank, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

RESOLUTION NO. 88-83 - RESOLUTION SUPPORTING LEGISLATION TO INCREASE FUNDING FOR GIFTED CHILDREN'S EDUCATION

Councilman Frank read a resolution supporting legislation to increase funding for gifted children's education. The resolution stated that the North Carolina General Assembly will soon vote on a proposal to spend $12.5 million for the education of academically gifted students in 1988-89 and this resolution supports that action.

Upon motion of Councilman Frank, seconded by Councilman Bratton, Resolution No. 88-83 was unanimously adopted.

Resolution Book No. 17 Page No. 160

PROCLAMATION - CENSUS AWARENESS DAY - MAY 20, 1988

Mayor Bissette read a proclamation proclaiming Friday, May 20, 1988 as "Census Awareness Day".

CLAIMS - RENEE GRIFFIN (POLICE) - OCTAVIA CALDWELL (SEWER) - JANET PHIPPARD (SANITATION)

The City Manager presented claims received from Renee Griffin, Octavia Caldwell, and Janet Phippard.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

MICHAEL PLEMMONS - COUNCIL OF INDEPENDENT BUSINESS OWNERS, INC. - RESOLUTION RELATIVE TO PROPOSED PRIVILEGE TAX ORDINANCE

Michael Plemmons presented a resolution adopted by the Council of Independent Business Owners, Inc. relative to the proposed revision to the privilege tax ordinance. The resolution requested that the City proceed with its plan to restructure the Privilege Tax Ordinance; that the City receive completed applications from all business owners that would be effected by the new ordinance giving the complete information that will be used to determine the amount of their Privilege Tax; that the City take the amount of revenue raised under the current Privilege Tax Ordinance, and reapportion this exact amount of money over the business licenses to be issued under the revised ordinance, and that this amount be the Privilege Tax to be paid by each applicant; that no revenue increase be generated by the Privilege Tax Ordinance during its first year after revision; that after the initial year, if the City wishes to raise the Privilege Tax Revenue, that this increase be subjected to a public hearing at which the City would give a detailed report as to the amount of new funds to be generated and the way in which these funds would be spent and that all Privilege Tax License holders be notified by mail of said public hearing.

Mayor Bissette informed Mr. Plemmons that Council would take the resolution under advisement.

RALPH BISHOP - COMMENTS RELATIVE TO MINUTES OF COUNCIL MEETING INCLUDING ENTIRE STATEMENTS

Ralph Bishop, referring to the memorandum presented by the Corporation Counsel at last week's meeting, said he felt the State law relative to the keeping of minutes would supersede any city regulations.

Mayor Bissette told Mr. Bishop that the Corporation Counsel would review the State law relative to the keeping of minutes.

ADJOURNMENT

Upon motion, the meeting adjourned at 4:50 p.m.

MAYOR

William F. Wolcott
CITY CLERK

Tuesday - May 24, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Wilhelmina Bratton, Russell Martin, and Walter Boland; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Assistant City Manager/Acting City Clerk Charles Penny.

Absent: Councilman Norma Price and Associate City Manager/City Clerk William F. Wolcott, Jr.

INVOCATION

The invocation was given by Mayor Louis Bissette.

APPROVAL OF MINUTES - MAY 17, 1988

Mayor Bissette announced the approval of the minutes of the May 17, 1988 meeting as submitted.

I. PROCLAMATIONS:

II. PUBLIC HEARINGS:

A. Public hearing relative to the submission of final Statement of Community Development Objectives for FY 89 to Housing and Urban Development.

Resolution No. 88-83 - Resolution authorizing submission of a final statement of Community Development Objectives and Projected Use of funds to the Department of Housing and Urban Development for Community Development Block Grant Entitlement Funds for 1988-89.

Mayor Bissette said this action will authorize submission of CDBG entitlement application for 1988-89.

Mayor Bissette opened the public hearing at 4:29 p.m.

The Acting City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Marvin Vierra, Community Development Director, said meetings were held in the communities relative to the proposed use of the funds and the Neighborhood Advisory Group in Montford. He said entitlement funds for 1988-89 would be $997,000 which would be funded as follows: Head of Montford Neighborhood Improvement Project - $558,000; Neighborhood Housing Services Loan Pool - $100,000; City-wide Housing Rehabilitation - $125,000; Asheville-Buncombe Community Relations Council - $14,000; Community Development Planning - $50,000; Community Development Administration - $123,000; Contingency - $27,000.

Mayor Bissette closed the public hearing at 4:34 p.m.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Bratton, seconded by Councilman Martin, Resolution No. 88-83 was unanimously adopted.

Resolution Book No. 17 Page No. 160-161

B. Public hearing relative to Beaver Lake Villas - (Long-Syrlin Street Apartments).

Mayor Bissette said the Asheville Planning and Zoning Commission on May 4, 1988, reviewed and recommended approval of Beaver Lake Villas to be located on Long Street, subject to the following:

1) Compliance with Erosion Control Ordinance;
2) Compliance with Landscape Ordinance
3) Locating fire hydrant at entrance of Long Street; and
4) Recommendation of closing Syrlin Street north of Lockley Avenue.

Mayor Bissette opened the public hearing at 4:35 p.m.

The Acting City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Planning and Zoning Commission had recommended approval subject to the conditions outlined by Mayor Bissette and that the project meets all parking, erosion control, and density requirements. He said the

closing of Syrlin Street north of Lockley Avenue would have to be accomplished by the residents of the area and City Council under separate action.

Mr. Emrick said the project would consist of twelve (12) units - six (6) two-bedroom buildings.

Upon inquiry of the residents, Mr. Emrick said the project was redesigned to provide that all accesses to the project would be from Long Street.

Upon inquiry of Council, Mrs. Goldstein said the project was geared for the elderly, however there may be children in the project.

Mayor Bissette said he felt Mrs. Goldstein had redesigned the project to eliminate problems the residents were having relative to the use of Syrlin Street.

Mayor Bissette closed the public hearing at 4:52 p.m.

Councilman Boland moved to approve the site plan of the Beaver Lake Villas - Long-Syrlin Street Apartments - subject to the conditions outlined by the Planning and Zoning Commission. This motion was seconded by Councilman Bratton and carried unanimously.

III. OLD BUSINESS:

A. Continuation of public hearing relative to closing a portion of Syrlin Street requested by Ellen Goldstein.

Resolution No. 88-84 - Resolution closing a portion of Syrlin Street requested by Ellen Goldstein.

Mayor Bissette said a petition was received from Ellen Goldstein to close a portion of Syrlin Street, being all of that portion of Syrlin Street extending northward from the northern margin of Tax Lot 178 and Tax Lot 13-1/4 of Ward 9, Sheet 7, of the Buncombe County Tax Maps. He said several public hearings have been held relative to this closing and the public hearing was continued until May 24, 1988.

Mayor Bissette said, in accordance with the recommendations of the Asheville Planning and Zoning Commission relative to Beaver Lake Villas, the residents of Syrlin Street would have to resubmit their petition to close the remaining portion of Syrlin Street since it was previously denied by Council.

He said with the closing of Syrlin Street there would be no way Syrlin Street could be used by the Beaver Lake Villas project.

Mayor Bissette closed the public hearing at 4:56 p.m.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Vice-Mayor Michalove, Resolution No. 88-84 was unanimously adopted.

Resolution Book No. 17 Page No. 162-163

B. Ordinance No. 1689 - Second reading of an ordinance amending the Zoning Ordinance - Section 30-7-1, Conditional Uses, adding Haywood Road under Item K. Professional Offices in R-3 District.

Mayor Bissette said per City Council's request of March 8, 1988, the Asheville Planning and Zoning Commission on April 6, 1988, considered a proposed wording amendment to the Asheville Zoning Ordinance, Section 30-7-1. Conditional Uses., Item K. to add Haywood Road to the list of thoroughfares permitting professional offices in the R-3 District adjacent to commercial and industrial zones. Commission unanimously recommended this amendment to City Council. This ordinance was read on first reading on May 17, 1988.

Verl Emrick, Director of Planning, said as requested by Council the Planning Staff had notified the property owner interested in this amendment.

On a roll call vote of 6-0, Ordinance No. 1689 passed on second reading.

C. Motion to authorize the Mayor to sign an amendment to the Airport Agreement and an amendment to the lease of the Airport property entered into between the City and the Airport Authority pursuant to the Airport Agreement, said documents to be consistent with the Memorandum of Agreement entered into by the City and County dated March 22, 1988.

Councilman Bratton moved to authorize the Mayor to sign the amendment to the Airport Agreement and the amendment to the lease of the Airport property pursuant to the Airport Agreement. This motion was seconded by Councilman Martin and carried unanimously.

D. City Clerk to present certificate certifying the sufficiency of the petition to annex a non-contiguous area on New Leicester Highway for the VFW Post.

Mayor Bissette said the City of Asheville has received a petition from the VFW Post 891 requesting annexation of a non-contiguous area on New Leicester Highway. The City Clerk has certified the sufficiency of said petition.

The Acting City Clerk presented the certificate certifying the sufficiency of the petition to annex a non-contiguous area on New Leicester Highway for the VFW Post.

E. Resolution No. 88-85 - Resolution fixing date of public hearing on question of annexation pursuant to G.S. 160-58.2, as amended (V.F.W. Post 891, Leicester Highway) for June 7, 1988.

Mayor Bissette said the City of Asheville has received a petition from the V.F.W. Post 891 requesting annexation of a non-contiguous area on New Leicester Highway. The City Clerk has certified the sufficiency of said petition. A public hearing is required pursuant to N.C.G.S.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Bratton, Resolution No. 88-85 was unanimously adopted.

Resolution Book No. 17 Page No. 164-165

IV. NEW BUSINESS:

A. Scheduling public hearing relative to an amended sign package for the Oakley Plaza Shopping Center (previously approved as Cherokee Place Shopping Center) for June 14, 1988.

Mayor Bissette said the Asheville Planning and Zoning Commission on May 4, 1988, reviewed the amended sign package for Oakley Plaza Shopping Center and recommended partial approval. A summary sheet listing requested signage and recommendation of the Commission is attached for your consideration. The Developer has been notified of right to appeal.

Vice-Mayor Michalove moved to schedule the public hearing relative to the amended sign package for the Oakley Plaza Shopping Center for June 14, 1988. This motion was seconded by Councilman Frank and carried unanimously.

V. CONSENT:

VI. OTHER BUSINESS:

PROPOSED ORDINANCE REQUIRING SMOKE DETECTORS

The City Manager reported that Council would be considering an ordinance requiring smoke detectors on June 21, 1988.

BOND COUNSEL - PROPOSED GSA BUILDING

The City Manager reported that in order to proceed with the proposed GSA Building, the City needs to immediately retain bond counsel for some preliminary work. He said local legislation needs to be introduced in the N.C. General Assembly by June 8th. He said it is important that bond counsel be involved in reviewing proposed local and state legislation in order that problems can be avoided in rendering an opinion on subsequent revenue bonds. He said three (3) proposals from bond attorneys have been received and he would recommend the acceptance of Kutak Rock & Campbell. He said the Kutak proposal is most advantageous to the City and calls for performing all necessary services on a contingent basis with the exception of legislative assistance. He said document preparation and bond sale work would be paid only should the project be consummated. He said the total fee would be $44,000.

Vice-Mayor Michalove moved to authorize the City Manager to retain the firm of Kutak Rock & Campbell as bond counsel for preliminary work concerning revenue bonds for the proposed GSA Building. This motion was seconded by Councilman Boland and carried unanimously.

CLAIMS - JOE HARE (SEWER) - CANDACE CUMMINGS (WATER) - TERRY OSBORNE (INSPECTIONS) - FRANKLIN TOWE (WATER)

The City Manager presented claims received from Joe Hare, Candace Cummings, Terry Osborne, and Franklin Towe.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

MR. GIBBS - INTERSTATE MOTEL - CONCERNS RELATIVE TO PROSTITUTION

Mr. Gibbs, owner of Interstate Motel on Hiawassee Street expressed concern relative to the prostitutes loitering around his motel. He said he is trying to run a legitimate motel

and the management of the motel has been instructed not to let the prostitutes on his property. He said the prostitutes present a problem for his operation. He said he wanted Council members to know of his concern for his property. He said if the City can not enforce the laws relative to prostitution perhaps an ordinance could be adopted to prohibit loitering on the streets and sidewalks.

Mayor Bissette said Council members share the concerns expressed by Mr. Gibbs; however, loitering laws for streets and sidewalks can not be enforced due to a U.S. Supreme Court ruling. He said enforcing the laws relative to prostitution are tough because of the judicial system. He said arrests can be made but the fines are minimum which allows the prostitutes to return to the streets almost the same day of an arrest. He said the City would continue in their efforts to minimize this problem.

ADJOURNMENT

Upon motion, the meeting adjourned at 5:25 p.m.

MAYOR

CITY CLERK

Tuesday - May 31, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Russell Martin, and Walter Boland; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Deputy City Clerk Carol Hensley.

Absent: Councilman Wilhelmina Bratton and Associate City Manager/City Clerk William F. Wolcott, Jr.

INVOCATION

The invocation was given by Vice-Mayor Michalove.

APPROVAL OF MINUTES - MAY 24, 1988 MEETING

Mayor Bissette announced the approval of the minutes of the May 24, 1988 meeting as submitted.

I. PROCLAMATIONS:

A. Proclamation -"Management Week" - June 6 - 11, 1988

Mayor Bissette read the proclamation and presented a copy to Janice Staggs, President of Chapter 801 of the the National Management Association.

B. Proclamation - "Rape Prevention Month" - June, 1988

Mayor Bissette read the proclamation and presented a copy to Leigh Dudasik, Executive Director, for the Rape Crisis Center.

C. Resolution No. 88-86 - Resolution of appreciation to John Acee for his service on the Zoning Board of Adjustment.

Mayor Bissette read the resolution which stated that John Acee has served as a member of the Asheville Board of Adjustment since 1951. Mr. Acee's appointment to the Board expired on January 21, 1988.

Upon motion of Councilman Martin, seconded by Councilman Frank, Resolution No. 88-86 was unanimously adopted.

Mayor Bissette presented Mr. Acee with a plaque and a copy of the resolution.

D. Presentation of Award for Certificate of Achievement for Excellence in Financial Reporting.

Mayor Bissette said the City of Asheville's comprehensive annual financial report for the fiscal year ended June 30, 1987 qualified for a Certificate of Achievement for Excellence in Financial Reporting from the Government Finance Officers Association for the eighth consecutive year. An Award of Financial Reporting Achievement was also awarded to Larry Fisher, Director of Finance, as the individual designated by the government as primarily responsible for its having earned the certificate.

Mayor Bissette and members of Council commended Larry Fisher for his staff for their efforts in receiving this award.

II. PUBLIC HEARINGS:

III. OLD BUSINESS:

A. Ordinance No. 1689 - Third reading of an ordinance amending the Zoning Ordinance - Section 30-7-1, Conditional Uses, adding Haywood Road under Item K. Professional Offices in R-3 District.

Mayor Bissette said per City Council's request of March 8, 1988, the Asheville Planning and Zoning Commission on April 6, 1988, considered a proposed wording amendment to the Asheville Zoning Ordinance, Section 30-7-1. Conditional Uses., Item K. to add Haywood Road to the list of thoroughfares permitting professional offices in the R-3 District adjacent to commercial and industrial zones. Commission unanimously recommended this amendment to City Council. This ordinance was read on first reading on May 17, 1988 and on second reading on May 24, 1988.

On a roll call vote of 6-0, Ordinance No. 1689 passed on third and final reading.

Ordinance Book No. 11 Page No. 269

IV. NEW BUSINESS:

A. Formal presentation of City of Asheville Budget for Fiscal Year 1988-89 and scheduling public hearing for June 14, 1988.

The City Manager highlighted the 1988-89 Budget message.

Councilman Price moved to schedule a public hearing for the City of Asheville Budget for Fiscal Year 1988-89 for June 14, 1988. This motion was seconded by Vice-Mayor Michalove and carried unanimously.

B. Ordinance No. 1690 - Ordinance for the levy and collection of business license taxes.

Mayor Bissette said the Revenue Ordinance has been rewritten to make it simpler and easier to understand, easier to administer and more equitable in levy. He said a phase-in process has been incorporated into the proposed ordinance.

The City Manager said the ordinance was rewritten to provide growth in revenues, equity, and efficiency in administering the ordinance. He said several businesses expressed a concern about the confidentiality of the gross sales receipts. He said language was included in the ordinance to provide that gross sales receipts would be confidential.

Ralph Bishop, speaking in opposition to the ordinance, said he felt the ordinance was only a measure to cut into the profits of businesses in the City of Asheville.

Councilman Price moved for the adoption of Ordinance No. 1690. This motion was seconded by Councilman Martin.

On a roll call vote of 6-0, Ordinance No. 1690 passed on first reading.

C. Resolution No. 88-87 - Resolution authorizing the Mayor to execute a contract on behalf of the City of Asheville with American Red Cross for handicapped transportation services.

Mayor Bissette said as a recipient of Section 9 funds from the Urban Mass Transportation Act the City is required to provide public transportation services within the corporate limits to qualified handicapped individuals. The service may be provided by the Asheville Transit Authority through the use of a third party. The American Red Cross is willing to provide this service.

Debra Collins, American Red Cross representative, answered questions from members of Council.

Councilman Boland requested that the city staff check with other cities to gather data on how they deal with requirements from the Urban Mass Transportation.

Carl Ownbey, from the Asheville Transit Authority, said this information is being collected and should be available by next year.

Upon motion of Councilman Boland, seconded by Councilman Martin, Resolution No. 88-87 was unanimously adopted.

Resolution Book No. 17 Page No. 167

D. Ordinance No. 1691 - Ordinance to revise Downtown Redevelopment Fund budgets to reflect current commitments.

Mayor Bissette said this ordinance will revise the budgets to reflect commitments.

Councilman Frank moved for the adoption of Ordinance No. 1691. This motion was seconded by Vice-Mayor Michalove.

On a roll call vote of 6-0, Ordinance No. 1691 passed on first and final reading.

Ordinance Book No. 11 Page No. 278

E. Resolution No. 88-88 - Resolution authorizing the City Manager to execute a contract with McGladrey & Pullen to perform computer mapping system project.

Mayor Bissette said this contract is to perform detailed needs analysis for computerized mapping throughout the City of Asheville, to submit request for proposal for appropriate computer hardware and mapping programs, to review the proposals submitted, and to recommend the best proposal to meet the needs of the City. This contract would also include the addition of necessary requirements in the request for proposals for the City's financial and operational applications, such that they will interface properly to the mapping programs and pass the appropriate information back and forth.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 88-88 was unanimously adopted.

Resolution Book No. 17 Page No. 168

V. CONSENT:

A. Approval of bids for one (1) articulating wheel loader for Public Works Department, Street Division and one (1) four-wheel drive backhoe with trailer for Water and Sewer Department, Waste Water Collection Division.

SUMMARY: Recommendation to low bidder, Arden Equipment Company, Inc., Arden, North Carolina, in the amount of $52,967.00 and for one four-wheel drive backhoe with trailer is recommended to the second low bidder, Ditch Witch of Charlotte, Inc., Charlotte, North Carolina, in the amount of $35,744.00.

Note: Bid Summary available in the City Clerk's Office.

B. Approval of bids for one (1) lot safety equipment for the Water Department, Waste Water Collection Division.

SUMMARY: One (1) lot of safety equipment consisting of multipurpose rescue retrieval systems and portable gas detectors is recommended to the low bidder, SAFECO, Inc., Greenville, South Carolina, in the amount of $33,520.00.

Note: Bid Summary available in the City Clerk's Office.

C. Scheduling public hearing relative to Beaver Lake Office Plaza Expansion for June 28, 1988.

SUMMARY: The Asheville Planning and Zoning Commission at a meeting on December 9, 1987, reviewed and approved the site plan of Beaver Lake Office Plaza Expansion subject to the following conditions:1) Provision of a 12" planted buffer adjacent to the R-3 Residential District property line; 2) Variance to buffer width and planing along northern and southern boundaries provided that parking lot landscape plan is implemented; 3) Final sign package to be reviewed by Asheville Planning and Zoning Commission; 4) Encourage right-of-way trees along Merrimon Avenue; and 5) Compliance with Erosion Control Ordinance.

Upon motion of Councilman Frank, seconded by Vice-Mayor Michalove, the consent agenda was unanimously adopted.

VI. OTHER BUSINESS:

CLAIMS - MERLINE TAYLOR (STREETS) - CHANDLEY/SAMS INVESTMENT (SEWER) - LOUISE MORGAN (WATER) - JESSICA JOHNSON (STREETS)

The City Manager presented claims received from Merline Taylor, Chandley/Sams Investment, Louise Morgan, and Jessica Johnson.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

INTERGOVERNMENTAL SERVICES COMMITTEE MEETING

Councilman Frank said the Intergovernmental Services Committee would be meeting next week on Tuesday, June 7, 1988 at 12:30 p.m. She also reported that no response had been received from Curtis Ratcliff, Chairman of the Buncombe County Commissioners, relative to a joint meeting with the City and County regarding the 911 emergency number.

COUNCILMAN BOLAND - PROPOSED ELECTION OF ASHEVILLE CITY SCHOOL BOARD MEMBERS

Councilman Boland reported that he had attended a controversial meeting relative to a proposal to elect Asheville City School Board members rather than having them appointed. He said the League of Women Voters would be studying this proposal within the next year. He said citizens expressed concern about the accountability of the members to Council and the public and the process used in appointing members.

WATER PROBLEMS - PATTON MOUNTAIN AND PEACH KNOB RESERVOIRS

The City Manager reported that the water problems experienced in the Patton Mountain and Peach Knob reservoir areas are currently under evaluation. He said the city staff is in the process of setting up automatic mutual aid for fire protection with the Volunteer Fire Departments, as well as placing sanitized water tanks in the neighborhoods for individuals without water. He said it is being recommended that everyone conserve water as much as possible.

RALPH BISHOP - COMMENTS RELATIVE TO ADDRESSING MEMBERS OF COUNCIL

Ralph Bishop read a portion of the Rules and Procedures for City Council relative to addressing members of Council for three (3) minutes during public hearings. He said in his opinion this provision does not apply to other discussions during a Council meeting.

ADJOURNMENT

Upon motion of Councilman Price, seconded by Councilman Martin the meeting adjourned at 5:45 p.m.

MAYOR

CITY CLERK

Tuesday - June 7, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell Martin, and Walter Boland; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Councilman Boland.

APPROVAL OF MINUTES - MAY 31, 1988

Mayor Bissette announced the approval of the minutes of the May 31, 1988 meeting as submitted.

I. PROCLAMATIONS:

II. PUBLIC HEARINGS:

A. Public hearing relative to rezoning property located on Governor's View Road.

Ordinance No. 1692 - An Ordinance amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville," as amended, petition of Smoky Mountain Petroleum Company, property located at 27 Governor's View Road.

Mayor Bissette said the Asheville Planning and Zoning Commission on May 4, 1988, reviewed and recommended approval of the petition of Smoky Mountain Petroleum Company that Ward 8, Sheet 15, Lot 98, and a portion of Lot 65 (27 Governors View Road), be rezoned from R-2 Residential District to CS Commercial Service District.

Mayor Bissette opened the public hearing at 4:19 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Mayor Bissette requested to be excused from deliberations on this matter due to his firm

representing the owner of Smoky Mountain Petroleum Company.

Vice-Mayor Michalove moved to excuse Mayor Bissette from vote and discussion relative to this rezoning. This motion was seconded by Councilman Frank and carried unanimously.

Vice-Mayor Michalove presided over this matter.

Patty Tallerday, with the Planning Department, said the Planning and Zoning Commission recommended approval of the requested rezoning. She said Smoky Mountain Petroleum Company owns both properties requested to be rezoned. She said adjoining property owners were notified of the requested rezoning with no opposition being received. She said the property fronts on Governor's View Road and runs to Swannanoa River Road.

Mr. Morgan, with Smoky Mountain Petroleum Company, spoke in support of the rezoning stating that his company does not have long range plans for the property. He said it would more than likely be used for warehousing or parking.

Mayor Bissette closed the public hearing at 4:23 p.m.

Mayor Bissette said members of Council were previously presented copies of the ordinance and it would not be read in its entirety.

Councilman Price moved for the adoption of Ordinance No. 1692. This motion was seconded by Councilman Boland.

On a roll call vote of 6-0, Ordinance No. 1692 passed on first reading.

B. Public hearing relative to annexing the V.F.W. Post 891, on Leicester Highway.

Ordinance No. - An Ordinance annexing a noncontiguous area located on N.C. Highway 63 (Leicester Highway) and known as the V.F.W. Post 891 Property

Mayor Bissette said the City of Asheville has received a petition from the V.F.W. Post 891 requesting annexation of a non-contiguous area on New Leicester Highway. The City Clerk has certified the sufficiency of said petition. A public hearing is required pursuant to N.C.G.S.

Mayor Bissette opened the public hearing at 4:25 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Patty Tallerday, with the Planning Department, explained how the area meets the standards for satellite annexation. She detailed the final plan for service to the area. She said the property is tax exempt and would not generate ad valorem taxes. However, the City would receive about $500 from taxes received from the sale of beverages.

Upon inquiry of Councilman Martin, Ms. Tallerday said the VFW Post 891 plans to obtain an ABC permit after annexation is approved.

Ralph Bishop said he did not think the City should be responsible for issuing liquor license in the County.

After discussion, Mayor Bissette closed the public hearing at 4:35 p.m.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Price moved for the adoption of the Ordinance. This motion was seconded by Councilman Bratton.

On a roll call vote of 4-3, the ordinance failed, with Mayor Bissette, Councilman Bratton and Councilman Price voting "aye" and Vice-Mayor Michalove, Councilman Boland, Councilman Martin and Councilman Frank voting "no".

III. OLD BUSINESS:

A. Report on 2010 Plan.

Mike Moser, Chairman of the Planning and Zoning Commission, highlighted the progress of the 2010 Plan adopted by the Asheville City Council in October, 1977. The 2010 Plan is a long-range comprehensive plan for the City of Asheville for the next 25 years which was compiled basically by the citizens of Asheville. He said the Planning and Zoning Commission was charged with the responsibility of implementation and monitoring of the plan. He said this is a six month

report on the completion and progress by departments and agencies of various items in the plan. He said a more comprehensive report would be given on October 3, 1988, one year after the initial adoption of the plan. He said the plan and its implementation process is working.

B. **Ordinance No. 1690 - Second reading of an Ordinance for the levy and collection of business license taxes.**

Mayor Bissette said the Revenue Ordinance has been rewritten to make it simpler and easier to understand, easier to administer and more equitable in levy.

The City Manager said several minor modifications were being made to the proposed ordinance which would be presented to members of Council prior to the third reading. He said members of Council would also be furnished a graph showing the impact of the changes from the current ordinance.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

On a roll call vote of 7-0, Ordinance No. 1690 passed on second reading.

IV. NEW BUSINESS:

A. Motion adopting the Water Budget for Fiscal Year 1988-89.

Mayor Bissette said the Asheville-Buncombe Water Authority has submitted the Water Fund Budget for Fiscal Year 1988-89.

Harold Huff, Director of Water and Sewer Services, said about one and one-half years ago the Asheville-Buncombe Water Authority unanimously approved a Master Plan Contract with the firm of Black and Veach. He said the plan is intended as a guide for the next twenty-two years. He said it has been the Authority's intention not to regulate or restrict the use of water. He said new requests for water taps have not been denied. He said in order to continue this water as needed practice without selective water tap denials or mandatory usage cut backs the Master Plan improvements recommended over the next eight (8) years need to be implemented without delay. He said this years budget proposes a water usage rate increase of fifteen percent (15%) which will assist in funding

$5 million in capital improvements cited in the Master Plan. He said the Asheville-Buncombe Water Authority adopted the Water Budget on May 24, 1988.

Mr. Huff answered questions from Vice-Mayor Michalove relative to the across the board 15% rate increase, the suggestion in the transmittal letter dated May 23, 1988 that the City Council and County Commissioners consider amending the Water Agreement to place a cap on their respective 5% and 2 1/2% contributions from the Water Fund at the FY 87/88 budget levels, and the effect the increase would have on water customers.

Upon inquiry of Council, Mike Holcombe with the Water and Sewer Services Department, said the County Commissioners adopted the Water Budget subject to the City agreeing to changing the formula for payment in lieu of taxes to the Water Fund.

Several members of Council expressed concern relative to amending the Water Agreement since it was amended about a year ago with the City at that time making many financial concessions.

After discussion, members of Council said they were not ready to vote on the Water Budget at this time since they have several questions relative to the Budget. Several items that were mentioned was a breakdown of expenditures, cost allocations, and timber contracts. It was noted that Council would discuss the 1988-89 Water Budget at next week's Council meeting.

Update on current water situation

Harold Huff, Water and Sewer Services Director, said reservoirs system wide are three fourths full. He said measures are being taken to eliminate future problems with the Beaucatcher, Peach Knob, and Patton Mountain reservoirs.

Councilman Boland said he would like for Council to thoroughly discuss water availability in greater detail.

B. Ordinance No. 1693 - Ordinance amending Section 25-14 of Chapter 25 of the Code of Ordinances of the City of Asheville relative to cutting into or otherwise disturbing streets and sidewalks.

Mayor Bissette said this ordinance sets forth rules and regulations relative to cutting into or otherwise disturbing streets and sidewalks.

The City Manager said this ordinance has been reviewed for a number of years in order to assure quality street and sidewalk cuts. He said the ordinance has been presented and discussed by the Utilities Coordinating Committee (ULOCO).

Charles Penny, Associate City Manager, instrumental in the preparation of the proposed ordinance, said the current ordinance dealing with street and sidewalk cuts is very broad and vague. He said the new ordinance provides for the collection of fees for street and sidewalk permits. He outlined the procedures and regulations to be followed in the issuance of permits.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Frank moved for the adoption of Ordinance No. 1693. This motion was seconded by Councilman Price.

On a roll call vote of 7-0, Ordinance No. 1693 passed on first reading.

Vice-Mayor Michalove moved to suspend the rules and proceed to the second reading of Ordinance No. 1693. This motion was seconded by Councilman Boland and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1693 passed on second reading.

C. Ordinance No. 1694 - Ordinance appropriating additional funds for the Rental Rehabilitation Program.

Mayor Bissette said the City of Asheville was notified by the U. S. Department of Housing and Urban Development on May 16, 1988 that the City has been awarded an additional $32,100 for the Rental Rehabilitation Program administered by the Housing Authority of the City of Asheville. This action will appropriate these additional funds into the Budget.

Mayor Bissette said copies of the ordinance was previously presented to members of Council and it would not be read in its entirety.

Councilman Boland moved for the adoption of Ordinance No. 1694. This motion was seconded by Councilman Martin.

On a roll call vote of 7-0, Ordinance No. 1695 passed on first and final reading.

Ordinance Book No. 11 Page No. 284

D. Ordinance No. 1695 - Ordinance appropriating funds for Fire Station Project.

Mayor Bissette said the City of Asheville is expanding its City Limits West of the present boundaries. The existing fire station will be relocated to a point considerable west of its present location. The new location will provide response times and distances, as equal as possible, throughout this company's district.

Mayor Bissette said copies of the ordinance was previously presented to members of Council and it would not be read in its entirety.

Councilman Martin moved for the adoption of Ordinance No. 1695. This motion was seconded by Councilman Frank.

On a roll call vote of 7-0, Ordinance No. 1695 passed on first and final reading.

Ordinance Book No. 11 Page No. 285

E. City Clerk to present certificate certifying the sufficiency of the petition to annex a non-contiguous area on Leicester Highway known as Dewey's Inc. property.

Mayor Bissette said the City of Asheville has received a petition from Ms. Judith A. Prozzo requesting annexation of a non-contiguous area known as Dewey's Inc. on Leicester Highway. The City Clerk has certified the sufficiency of said petition.

The City Clerk presented the certificate certifying the sufficiency of the petition to annex a non-contiguous area on Leicester Highway known as Dewey's Inc. property.

V. CONSENT:

A. Approval of sale of disposal parcel 160 in the East Riverside Redevelopment Project.

SUMMARY: The Housing Authority has tentatively accepted the following bid for a certain

disposal parcel in the East Riverside Redevelopment Project.

Parcel	Reuse	Price	Bid	Redeveloper
160	Office-Inst.	$30,000	$30,225	Blue Ridge Bone & Joint Clinic

Disposal Parcel 160 is located at the corner of Myrtle and Pine Grove Streets and will be developed for parking in connection with the redeveloper's expansion of its facility at 129 McDowell Street.

B. Resolution No. 88-89 - Resolution fixing date of public hearing on question of annexation pursuant to G.S. 160-58.2, as amended (Dewey's Tavern, Leicester Highway) for June 21, 1988.

SUMMARY: The City of Asheville has received a petition from Ms. Judith A. Prozzo requesting annexation of a non-contiguous area known as Dewey's Inc. on Leicester Highway. The City Clerk has certified the sufficiency of said petition. A public hearing is required pursuant to N.C.G.S.

Resolution Book No. 17 Page No. 169

C. Scheduling public hearing relative to amending Section 30-11-4 of the Code of Ordinance of the City of Asheville streamlining Group Development Procedure for June 28, 1988.

SUMMARY: The Asheville Planning and Zoning Commission on May 18, 1988, recommended approval of this amendment to City Council. It will facilitate the approval of group developments meeting certain criteria. Representatives of homeowners associations, Coalition of Asheville Neighborhoods, Council of Independent Business Owners, Home Builders Association, and other professional groups provided input at our hearings.

Upon motion of Vice-Mayor Michalove, seconded by Councilman Boland, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

RESOLUTION NO. 88-90 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE CIVIC CENTER COMMISSION (Mike Green, Dianna Jackson, and Sheryl Groce)

Mayor Bissette presented a resolution reappointing Mike Green, Dianna Jackson and Sheryl Groce as members of the Asheville Civic Center Commission for three (3) year terms, terms expiring June 30, 1991 or until their successors have been duly appointed and qualified.

Upon motion of Councilman Martin, seconded by Councilman Frank, Resolution No. 88-90 was unanimously adopted.

Resolution Book No. 17 Page No. 170

CLAIMS - KATHY TIPTON (WATER) - CAROL MURRAY (WATER) - PO FOLKS (WATER) - STEVE PARKER (WATER) - CHARLES RAWLS (WATER) - MAX HUTCHINS (COMMUNITY DEVELOPMENT) - MARGARET TRUMBO (SEWER) - RANDY PARKER (WATER)

The City Manager presented claims received from Kathy Tipton, Carol Murray, Po Folks, Steve Parker, Charles Rawls, Max Hutchins, Margaret Trumbo, and Randy Parker.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

LAWSUITS - HOUSING AUTHORITY OF THE CITY OF ASHEVILLE (CONDEMNATION OF TRUSTEES OF GOODWILL LODGE 316, ET AL., PROPERTY (E. END/VALLEY STREET))

The City Manager said the City was served with a lawsuit on May 27 involving the Housing Authority of the City of Asheville and the condemnation of Trustees of Goodwill Lodge 316, et al., property on E. End/Valley Street.

Mayor Bissette referred the lawsuit to the Corporation Counsel for investigation and recommendation.

REPORT ON INTERGOVERNMENTAL SERVICES COMMITTEE MEETING

Councilman Frank reported that the Intergovernmental Services Committee met today at 12:30 p.m. and discussed six different issues. She said Commissioner Montgomery requested that the issues be written with all the particulars and sent to him within a week and he would have the County Commissioners respond within a month. She said the issues discussed were joint warehousing, litter enforcement, 911 emergency number, extraterritorial jurisdiction, tax lot clearing, and metropolitan law enforcement.

REQUEST FOR STATUS REPORT ON MANOR PROPERTY

Vice-Mayor Michalove requested a current status report on the Manor property.

ADJOURNMENT

Upon motion, the meeting adjourned at 6:10 p.m. to executive session to discuss a real estate matter.

MAYOR

CITY CLERK

Tuesday - June 14, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell Martin, and Walter Boland; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Deputy City Clerk Carol Hensley.

Absent: Associate City Manager/City Clerk William F. Wolcott, Jr.

INVOCATION

The invocation was given by Councilman Martin.

APPROVAL OF MINUTES - JUNE 7, 1988 MEETING

Mayor Bissette announced the approval of the minutes of the June 7, 1988 meeting with several noted changes by Councilman Boland.

A discussion was held, instituted by Ralph Bishop, relative to verbatim minutes. It was noted that the Corporation Counsel would furnish Mr. Bishop information relative to requirements for keeping of the City Council minutes.

I. PROCLAMATIONS:

A. Proclamation -"Soap Box Derby Day"- Saturday, June 18, 1988

Mayor Bissette read the proclamation and presented a copy to Ray Kisiah, Director of Parks, Recreation, and Public Facilities. The Soap Box Derby Race is sponsored by the West Asheville Rotary Club, in cooperation with the Asheville Parks, Recreation, and Public Facilities Department.

II. PUBLIC HEARINGS:

A. Public hearing relative to Beaver Lake Office Plaza Expansion.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting on December 9, 1987, reviewed and approved the site plan of Beaver Lake Office Plaza Expansion subject to the following conditions:1) Provision of a 12' planted buffer adjacent to the R-3 Residential District property

line; 2) Variance to buffer width and planing along northern and southern boundaries provided that parking lot landscape plan is implemented; 3) Final sign package to be reviewed by Asheville Planning and Zoning Commission; 4) Encourage right-of-way trees along Merrimon Avenue; and 5) Compliance with Erosion Control Ordinance.

Mayor Bissette opened the public hearing at 4:22 p.m.

The Deputy City Clerk presented the notice to the public setting the time and date of the public hearing and the affidavit of publication.

Julie Cogburn, Acting Planning Director, said the complex is proposed to be constructed in the rear of the existing office buildings on Merrimon Avenue. She said the complex would consist of a new two story office building containing 7,488 square feet. She said all the provisions stipulated by the Planning and Zoning Commission are indicated on the plans or are to be implemented during construction. She said the project meets all requirements of the Zoning Ordinance.

Larry Traber, Architect for the project, answered general questions from members of Council and said handicap parking would be provided.

A discussion was held relative to the developer providing sidewalks around the project.

Mayor Bissette closed the public hearing at 4:30 p.m.

Councilman Frank moved to approve the site plan of the Beaver Lake Office Plaza Expansion as recommended by the Planning and Zoning Commission. This motion was seconded by Councilman Price and carried unanimously.

B. Public hearing relative to an amended sign package for the Oakley Plaza Shopping Center (previously approved as Cherokee Shopping Center)

Mayor Bissette said the Asheville Planning and Zoning Commission on May 4, 1988, reviewed the amended sign package for Oakley Plaza Shopping Center and recommended partial approval. A summary sheet listing requested signage and recommendation of the Commission is attached for your consideration. The Developer has been notified of right to appeal.

Mayor Bissette opened the public hearing at 4:34 p.m.

The Deputy City Clerk presented the notice to the public setting the time and date of the public hearing and the affidavit of publication.

Mayor Bissette requested that he be excused from the discussion and vote on the Oakley Plaza Shopping Center since his law firm represents the developer.

Councilman Price moved to excuse Mayor Bissette from discussion and vote on the Oakley Plaza Shopping Center. This motion was seconded by Councilman Martin and carried unanimously.

Vice-Mayor Michalove presided over this matter.

Julie Cogburn, Acting Planning Director, presented the recommendations of the Planning and Zoning Commission relative to individual tenant requests for signage. She indicated that one of the Sign Commission's recommendations would be that for multi-tenant complexes that one sign per store be permitted.

A representative of the Revco Drug Store firm presented a request that Revco be allowed signage in the amount of 118 square feet in lieu of their requested 150 square feet. It was noted that the Planning and Zoning Commission recommended 65 square feet of signage for the Revco store.

After discussion, Vice-Mayor Michalove closed the public hearing at 4:49 p.m.

Councilman Price moved to approve the amended sign package for the Oakley Plaza Shopping Center as recommended by the Planning and Zoning Commission. This motion was seconded by Councilman Boland and carried unanimously.

C. Public hearing relative to City of Asheville Budget for FY 1988-89.

Ordinance No. 1696 - Ordinance adopting the Budget and fixing the tax rate of the City of Asheville for the Fiscal Year 1988-89.

Mayor Bissette said this ordinance will adopt the annual operating budget for the City of Asheville for Fiscal Year 1988/89. He noted that the budget was previously presented to members; that the budget

was presented in the amount of $50 million with no tax rate increase.

Mayor Bissette opened the public hearing at 4:50 p.m.

The Deputy City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

The City Manager reported that he was informed this week that the County Commissioners had made a change in the method of calculations for the reimbursement to the City for law enforcement services city taxpayers pay for but do not receive from the county sheriff's department. He said this action means a reduction of $260,000 in payments for the current fiscal year and $263,000 for 1988-89 which reflects a $523,999 negative impact on the 1988-89 budget. He said this reimbursement method is stipulated in the Water Agreement. He said it is his understanding that the County Finance Director Jim Roach had asked an auditing firm to reevaluate the county's "direct costs" for law enforcement services in Asheville and the county's other municipalities and this reevaluation led to a recalculating of the formula used to determine the amount of reimbursements. He said the County has informed the City that they could not produce any information on how and why the change was made until late this month or early in July.

Upon inquiry of Councilman Price, the City Manager reviewed the budget for the Sheriff's Department which indicated a reallocation of funding within the Sheriff's budget.

Vice-Mayor Michalove said it concerned him that the budget as presented contains approximately $1 million in cuts due to the County's actions, mandates by the General Assembly, and the federal government, without a tax increase.

Councilman Boland said he felt the City and County is becoming too aggressive in their comments and reasoning should prevail with reasonable requests. He said he felt both bodies should temper their comments.

Councilman Frank commended the City Manager and the staff for presenting such a planned budget with so many unknown frustrating factors involved.

Councilman Price said she felt the budget as presented is a positive budget which includes elements of the 2010 plan. She noted that the County would also benefit from the growth of the City of Asheville.

Upon inquiry of Vice-Mayor Michalove, it was noted that payments to the County for such items as landfill fees are paid monthly instead of yearly and the City is losing interest on cash flow. It was also indicated that the City receives a check from the County at the end of each fiscal year for payments due the City.

Mayor Bissette said he felt the County Commissioners' action is a direct violation of the Water Agreement that was just renegotiated last summer after months of turmoil. He said it appears that the commissioners have unilaterally changed the definition of direct cost from the original water agreement that was approved but they haven't provided any information on why or how it was done. He said he was extremely disappointed that no communication was received from the County other than a phone call from the County Finance Director a week before the City's budget was to be adopted and he was not about to accept this action. He said one party to an agreement can not all of a sudden turn around and change the agreement to another way. He said losing the $523,000 is unacceptable and something that cannot be brushed aside casually.

The City Manager reported that the County had adopted their budget, this afternoon, with the reduced law enforcement allocation.

Mayor Bissette closed the public hearing at 5:22 p.m.

Councilman Frank moved for the adoption of Ordinance No. 1696. This motion was seconded by Councilman Boland.

On a roll call vote of 7-0, Ordinance No. 1696 passed on first and final reading.

Ordinance Book No. 11 Page No. 286-288

Councilman Boland requested that the Council and staff look into additional sources of revenue for the City of Asheville as well as efficiency.

Councilman Martin said he did not feel the County Commissioners should be making unilateral decisions without communication.

III. OLD BUSINESS:

A. Ordinance No. 1692 - Second reading of an ordinance amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville," as amended, petition of Smoky Mountain Petroleum Company, property located at 27 Governor's View Road.

Mayor Bissette said the Asheville Planning and Zoning Commission on May 4, 1988, reviewed and recommended approval of the petition of Smoky Mountain Petroleum Company that Ward 8, Sheet 15, Lot 98, and a portion of Lot 65 (27 Governors View Road), be rezoned from R-2 Residential District to CS Commercial Service District. This ordinance was read on first reading on June 7, 1988.

Mayor Bissette said the ordinance was previously read on first reading and it would not be reread in its entirety.

On a roll call vote of 7-0, Ordinance No. 1692 passed on second reading.

B. Ordinance No. 1693 - Third reading of an ordinance amending Section 25-14 of Chapter 25 of the Code of Ordinances of the City of Asheville.

Mayor Bissette said this ordinance sets forth rules and regulations relative to cutting into or otherwise disturbing streets and sidewalks.

Mayor Bissette said the ordinance was previously read on first and second reading and it would not be reread in its entirety.

On a roll call vote of 7-0, Ordinance No. 1692 passed on third reading.

Ordinance Book No. 11 Page No. 281-283

C. Resolution No. 88-91 - Resolution of intent to close a portion of Syrlin Street and calling a public hearing for July 19, 1988.

Mayor Bissette said a petition was received from Norman C. Bradford, Virginia Bradford, and others requesting that a portion of Syrlin Street be permanently closed to the public use. The petition requested that a portion of Syrlin Street between Tax Lots 178 and 13-1/4 of Ward 9, Sheet 7, be closed as a public street right of way.

Upon motion of Councilman Martin, seconded by Councilman Price, Resolution No. 88-91 was unanimously adopted.

Resolution Book No. 17 Page No. 171-172

D. Ordinance No. 1690 - Third reading of an ordinance for the levy and collection of business license taxes.

Mayor Bissette said the Revenue Ordinance has been rewritten to make it simpler and easier to understand, easier to administer and more equitable in levy.

Mayor Bissette said questions from members of Council have been answered by the staff and clarifications have been presented.

Eric Bright, book publisher/distributor from Skyland, said he felt the tax should be classified as a sales tax since it is based on gross sales. He also questioned whether wholesalers shipping merchandise in from out of the area would be included in the tax.

The Corporation Counsel clarified the question relative to the tax not being classified as a sales tax.

The City Manager said the ordinance would only apply to active businesses located in the City of Asheville. He said only wholesalers located in the City of Asheville would have to comply with the ordinance. He noted that the ordinance has a maximum fee of $600.

Mike Plemmons, with the Council of Independent Business Owners, questioned whether or not suppliers furnishing suppliers in the City of Asheville could be taxed under the ordinance.

Vice-Mayor Michalove said it might be worthwhile for the City Manager and City Attorney to pursue licensing of suppliers.

Larry Fisher, Director of Finance, said the ordinance was taken from information received from the Institute of Government and the North Carolina League of Municipalities. He said he did not know of a city or town in North Carolina that does not follow these sample ordinances. He said technically any business doing a substantial business in the City could be taxed; however in practicality a supplier furnishing a supplier in the City of Asheville would not be taxed.

Mayor Bissette suggested that guidelines should be established so as not to have a problem with enforcement of the ordinance.

Mike Plemmons, with the Council of Independent Business Owners, requested strict enforcement of the ordinance.

On a roll call vote of 7-0, Ordinance No. 1690 passed on third and final reading.

Ordinance Book No. 11 Page No. 270-277

E. Motion adopting the Water Budget for Fiscal Year 1988-89.

Mayor Bissette said the Asheville-Buncombe Water Authority has submitted the Water Fund Budget for Fiscal Year 1988-89. Council continued consideration of this motion from the June 7, 1988 meeting. He said the budget calls for a 15 percent rate hike and reflects the City-County Water Agreement's provisions that the City receive 5 percent of gross water revenues and the County receive 2-1/2 percent as their return on investment in the system. He said the County approved the Water Budget with an amendment that the City's and County's return on investment be "capped" at the 1987-88 level rather than including additional proceeds resulting from the 15 percent rate hike in the 1988-89 budget.

Upon inquiry of members of Council, Harold Huff, Director of Water and Sewer Services, noted the capital improvements to be accomplished with the funds received from the 15 percent rate increase. He also presented the impact the 15 percent would have on an average homeowner.

Councilman Frank moved to approve the Water Budget for 1988-89 as presented by the Asheville-Buncombe Water Authority. This motion was seconded by Vice-Mayor Michalove and carried unanimously.

IV. NEW BUSINESS:

A. Sign permit request for off-premises advertising sign to be located at I-240 at Fairview Road.

Mayor Bissette said Holland Outdoor Advertising Company has requested approval of a sign permit for a 14' x 48' off-premises advertising sign to be located at I-240 and Fairview Road. This permit requires approval of Council since the sign will be situated closer than 600' from a limited access highway.

Mayor Bissette said this matter would be postponed until the July 12, 1988 meeting.

B. Ordinance No. 1697- An ordinance amending Chapter 28, (Traffic) Article II, Section 28-51 of the Code of Ordinances of the City of Asheville prohibiting the parking of large trucks on City system streets.

Mayor Bissette said this ordinance will prohibit the parking of certain large trucks and buses, not occupied by a licensed operator, on City system streets.

The Corporation Counsel said this ordinance was prepared at Council's request. He said the definition of a "truck" is standard North Carolina Department of Transportation language.

Councilman Martin questioned whether or not a "motor grader" would apply to the ordinance.

Vice-Mayor Michalove moved for the adoption of Ordinance No. 1697. This motion was seconded by Councilman Bratton.

On a roll call vote of 7-0, Ordinance No. 1697 passed on first reading.

C. Scheduling of public hearing relative to group development review of "Asheville Terrace Apartments - Reconstruction" on Tunnel Road for June 28, 1988.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting on June 1, 1988, reviewed and approved the site plan of "Asheville Terrace Apartments - Reconstruction," subject to the following contingencies:

1) Variance on number of parking spaces required not to exceed ratio approved for existing project; and

2) Developer working with planning staff, prior to submission to City Council, on buffering requirement.

Councilman Martin moved to schedule the public hearing relative to the group development review of "Asheville Terrace Apartments - Reconstruction" on Tunnel Road for June 28, 1988. This motion was seconded by Councilman Frank and carried unanimously.

V. CONSENT:

VI. OTHER BUSINESS:

CERTIFICATE OF APPOINTMENT - HOUSING AUTHORITY COMMISSIONER - REAPPOINTMENT OF PHILLIP E. CROUCH

Mayor Bissette announced the reappointment of Mr. Phillip E. Crouch as a Commissioner of the Housing Authority of the City of Asheville for a five (5) year term, term expiring June 11, 1993.

OPENING OF WALL STREET PARKING GARAGE

The City Manager said the Wall Street Parking Garage would probably be opening in a few days. He said members of Council would be given a call for a small grand opening of the garage.

CLAIMS - CARL CARLSON (WATER) - CATHY BINDE (POLICE) - LOU ETTA COURTNEY (STREETS) - CECILS COLLEGE (SEWER) - ELLITA WARD (WATER) - CORNER CUPBOARD ANTIQUE MALL (STREETS)

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The City Manager presented claims received from Carl Carlson, Cathy Binde, Lou Etta Courtney, Cecils College, Ellita Ward, and Corner Cupboard Antique Mall.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

LAWSUITS - GEORGE STUART TODD, ET AL. V. OFFICER JIMMY L. HUNGERFORD, (ABC OFFICER) ET AL. - (WRONGFUL ACT)

The City Manager said the City was served with a lawsuit on June 7, 1988 involving George Stuart Todd, et. al. v. Officer Jimmy L. Hungerford, (ABC Officer), relative to a wrongful act - alleged assault and violating of Constitutional rights during arrest by police officers.

Mayor Bissette referred the lawsuit to the Corporation Counsel for investigation and recommendation.

ADJOURNMENT:

Upon motion, the meeting adjourned at 6:25 p.m.

MAYOR

CITY CLERK

Tuesday - June 21, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Russell Martin, and Walter Boland; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilmen Mary Lloyd Frank, Norma T. Price, and Wilhelmina Bratton.

INVOCATION

The invocation was given by Mayor Bissette.

APPROVAL OF MINUTES - JUNE 14, 1988 MEETING

Mayor Bissette announced the approval of the minutes of the June 14, 1988 meeting as submitted.

I. PROCLAMATIONS:

II. PUBLIC HEARINGS:

A. Public hearing relative to closing a portion of Gudger Street.

Resolution No. 88-92 - Resolution to close a portion of Gudger Street.

Mayor Bissette said a petition has been filed by Asheville City Board of Education requesting that a portion of Gudger Street be permanently closed to the public use.

Mayor Bissette opened the public hearing at 4:10 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

The City Manager said the closing of this portion of Gudger Street is in conjunction with the improvements to Randolph School. He said the city also participated in the costs to relocate Gudger Street for these improvements. He said the proposed closing was reviewed by the Technical Review Committee, a committee represented by all operating departments, and no problems were noted during the review.

Sharon Barrett, with Patla, Straus, Robinson and Moore, was present on behalf of the Asheville City Schools to answer any questions members of Council might have relative to the closing.

Mayor Bissette closed the public hearing at 4:14 p.m.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Martin, seconded by Vice-Mayor Michalove, Resolution No. 88-92 was unanimously adopted.

Resolution Book No. 17 Page No. 173-175

C. Public hearing relative to the annexation of a noncontiguous area on Leicester Highway known as Deweys property.

Mayor Bissette said the City of Asheville has received a petition from Ms. Judith A. Prozzo requesting annexation of a non-contiguous area known as Dewey's Inc. on Leicester Highway. The City Clerk has certified the sufficiency of said petition. A public hearing is required pursuant to N.C.G.S.

Mayor Bissette opened the public hearing at 4:15 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Patty Tallerday, with the Planning Department, said the proposed annexation is located 1.3 miles from the current corporate limits. She said the area meets all the standards for satellite annexation. She said the area can be provided with all city services, with fire services being provided on a contract basis with the volunteer fire department and police protection being provided in cooperation with the Buncombe County Sheriff's Department. She said the estimated annual revenue for the City of Asheville is $1,010 - $510 in ad valorem taxes, and $600 in sales tax.

Wayne Bishop, 311 Brooklyn Road, Hendersonville, North Carolina, Manager of Dewey's Inc. spoke in support of the annexation. He said the main purpose

for requesting annexation would be to allow Dewey's Inc. to sell liquor by the drink. He noted that the establishment presently serves beer and wine.

Councilmen Martin and Boland expressed concern relative to the needed road improvements on Leicester Highway and the fact that the establishment was so close to the road. It was noted that there could be a potential dangerous traffic situation with people drinking at the establishment then driving on Leicester Highway.

Mayor Bissette closed the public hearing at 4:21 p.m.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

After calling for a motion for adoption, Mayor Bissette announced that the ordinance died for the lack of a motion for adoption.

Mayor Bissette said had a motion been received for adoption of the ordinance he would have probably voted for the ordinance since Council had previously approved satellite annexations for other establishments for the same reason Dewey's requested annexation.

III. OLD BUSINESS:

A. Ordinance No. 1692 - Third reading of an ordinance amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville," as amended, petition of Smoky Mountain Petroleum Company, property located at 27 Governor's View Road.

Mayor Bissette said the Asheville Planning and Zoning Commission on May 4, 1988, reviewed and recommended approval of the petition of Smoky Mountain Petroleum Company that Ward 8, Sheet 15, Lot 98, and a portion of Lot 65 (27 Governors View Road), be rezoned from R-2 Residential District to CS Commercial Service District.

Mayor Bissette said this ordinance was previously read on first and second reading and will not be reread in its entirety.

On a roll call vote of 4-0, Ordinance No. 1692 passed on third and final reading.

Ordinance Book No. 11 Page No. 279-280

b. Ordinance No. 1697 - Second reading of an ordinance amending Chapter 28, (Traffic) Article II, Section 28-51 of the Code of Ordinances of the City of Asheville prohibiting the parking of large trucks on City system streets.

Mayor Bissette said this ordinance will prohibit the parking of certain large trucks and buses, not occupied by a licensed operator, on City system streets.

A discussion was held relative to permitting the temporary parking of vehicles in connection with construction related activities on city system streets.

On a roll call vote of 4-0, Ordinance No. 1697 passed on second reading.

The City Attorney was requested to present an amendment to the ordinance prior to third reading relative to parking of vehicles in connection with construction activities.

c. Resolution No. 88-93 - Resolution adopting the City of Asheville Affirmative Action Plan.

Mayor Bissette said the City of Asheville is committed to a policy of equal employment opportunity. In furtherance of this, an Affirmative Action Plan has been prepared which is designed to achieve parity between the City's workforce and the relevant labor market through recruitment, employment, training, and promotion. This resolution will formally adopt the Plan.

Mayor Bissette said several public hearings were held relative to the Affirmative Action Plan; however, action on the Plan was postponed until groups had an opportunity to review the plan.

Councilman Boland, Chairman of the Affirmative Action Task Force, said after much deliberation the Task Force has recommended the adoption of the proposed plan. He said in his opinion it is one of the strongest Affirmative Action Plans in the state. He noted that even though the cover letter, presenting the plan, recommended changes to the Civil Service Law, this recommendation is not a part of the plan. He said the Task Force also recommended an annual public hearing on the Affirmative Action Plan but this recommendation is not a part of the proposed plan.

Ralph Bishop asked whether or not this plan would help equal protection of the law in the operation of the Police Department.

Steve Wilburn, representative of the Asheville branch for the NAACP, requested that the plan be amended to specify the individual responsible for implementation of the plan; that the Affirmative Action Task Force be made a part of the yearly evaluation of the plan; that a member of Council continue to serve as Chairman of the Task Force; that advertisements for positions within the City contain language that minorities and women are voluntarily encouraged to identify themselves; and that the City Manager be included in the establishment of goals and timetables.

Councilman Boland answered general questions from Mr. Wilburn.

Mr. Wilburn said they were not trying to get unqualified blacks in positions; however, blacks should be given equal consideration. He said, basically, the proposed plan is a good one if it has Council's full commitment behind the plan. He said after one year of implementation the Asheville branch of the NAACP would like to measure its progress.

Johnny Hayes, said the Affirmative Action Plan can not be a true plan without changes to the current Civil Service Law. He said the plan should also have Council's full commitment.

Mayor Bissette noted that Council is presently reviewing the current Civil Service Law and several recommended changes have been discussed with local legislators. He said the city staff is also working with the Institute of Government regarding amendments to the Law. He said it is Council's hope that these amendments can be presented to the General Assembly in January, 1989.

Ralph Bishop said in his opinion it is a mockery to pass a law without enforcement.

Marilyn Bass suggested that all city job advertisements contain language that the City is a EEO employer and an Affirmative Action Employer.

Councilman Martin said he felt the plan is a good starting point and in his opinion the plan has the commitment of Council and the staff.

After discussion, Councilman Boland moved to amend Resolution No. 88-93 to reflect that the individual responsible for implementation of the plan be the

Personnel Director; that the Affirmative Action Task Force be made a part of the yearly evaluation of the plan; that advertisements for positions within the City contain language that minorities and women are voluntarily encouraged to identify themselves; that the City Manager be included in the establishment of goals and timetables; and that all city job advertisements contain language that the City is a EEO employer and an Affirmative Action Employer. This motion was seconded by Councilman Martin and carried unanimously.

Upon motion of Councilman Boland, seconded by Vice-Mayor Michalove, Resolution No. 88-93, as amended, was unanimously adopted.

Resolution Book No. 17 Page No. 176

IV. NEW BUSINESS:

A. Ordinance No. 1698 - Ordinance regulating smoke detectors in residential occupancies.

Mayor Bissette said this ordinance amends the Asheville Fire Code by requiring that: 1) Smoke detectors must be installed in any dwelling unit offered for rental or lease, including single-family homes; 2) In multi-dwelling buildings, smoke detectors must be installed in stairwells and common areas; 3) The owner of such units is responsible for installing, maintaining and repairing the smoke detectors; the tenant is responsible for reporting observed detector problems, and for preventing destruction and removal of the detector; 4) Smoke detectors must be installed in any dwelling unit offered for sale by the time sale closing or completion. The effective date of the ordinance - and its requirements - would be August 1, 1988.

Chief Mike Jones, with the Asheville Fire Department, said the present Fire Prevention Code, requires new construction to install smoke detectors. He said this ordinance would require existing multi-unit buildings to have smoke detectors in each room, private residences prior to being rented or sold or a Certificate of Occupancy being issued. He said the cost of this protection is minimum. He said the smoke detectors must be UL approved. He said the penalty, if not installed, would be $25.00 plus they would still have to install the smoke detector. He said it would also be a misdemeanor not to install the detectors then it could go into legal action. He said the ordinance is following guidelines of the North

Carolina State Building Code. He said other cities adopted similar or more stringent ordinances a long time ago.

Ralph Bishop said in his opinion if someone wants to risk their life that should be their business.

On a roll call vote of 4-0, Ordinance No. 1698 passed on first reading.

B. Resolution appointing members to the Asheville Police Officers and Firefighters Disability Review Board.

Mayor Bissette said the Asheville City Council adopted Ordinances 1650 and 1674 establishing the Asheville Police Officers and Firefighters Disability Review Board for former members of the Asheville Policemen's Pension and Disability Fund and the Asheville Firemen's Pension and Disability Fund. The Disability Review Board is to consist of a member of the Asheville City Council to serve as Chairman; a current member of the Asheville Police Department, elected by former members of the Asheville Policemen's Pension and Disability Fund; a current member of the Asheville Fire Department, elected by former members of the Asheville Firemen's Pension and Disability Fund; a licensed medical doctor; the City Manager or his designee; and two members at large chosen by the City Council.

After discussion, Mayor Bissette said Council would take action on this resolution on June 28, 1988.

A. Public hearing relative to closing Shawnee Trail.

Mayor Bissette said a petition has been filed by Centennial American Properties, Ltd. on behalf of The Litchfield Co. of South Carolina Ltd. Partnership requesting that Shawnee Trail be permanently closed to the public use.

Mayor Bissette noted that no action could be taken on the closing of Shawnee Trail today due to his having a conflict of interest in the matter and there not being a quorum of Council if he does not participate.

Vice-Mayor Michalove opened the public hearing at 5:37 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Mr. John C. Young, Jr., 271 Fairway Drive, questioned whether or not the portion requested to be closed is in the Redwood Forest area. He was informed that it is not but it is located off Tunnel Road. He said he would be in favor of the closing. He also noted that a traffic sign was hidden in this area that should be removed and used someplace.

Councilman Boland moved to continue the public hearing relative to closing Shawnee Trail until July 12, 1988 without further advertisement. This motion was seconded by Councilman Martin and carried unanimously.

V. CONSENT:

A. Resolution No. 88-94 - Resolution authorizing the Mayor to execute on behalf of the City of Asheville a Federal Aviation Grant Agreement, Project No. 3-37-0005-09.

SUMMARY: The FAA has offered a grant agreement in the amount of $965,209 to the Asheville Regional Airport Authority to expand general aviation apron, 30,600 s.y.i. with connecting taxiways and replace 1500 gallon Air Rescue Fire Fighting Vehicle. The City of Asheville and the County of Buncombe are co-sponsors of the grant agreement. The FAA requires each sponsor to execute said grant agreement.

Resolution Book No. 17 Page No. 177

B. Approval of bids for one paint striping machine for Public Works Department, Traffic Engineering Division.

SUMMARY: Recommendation to award one M-B Company model Van Mark 360 striping machine mounted on a 1988 Ford F-350 cab and chassis is recommended to the low bidder, M-B Company, Inc., Chilton, Wisconsin, in the amount of $76,936.00.

C. Resolution No. 88-95 - Resolution adopting revisions to the manual of fees and charges for the City of Asheville.

SUMMARY: This resolution will adopt the revisions to the Fees and Charges Manual for the City of Asheville.

Resolution Book No. 17 Page No. 178

D. Resolution No. 88-96 - Resolution authorizing the Mayor of the City of Asheville to execute an easement in favor of Carolina Power and Light Company at the Asheville Regional Airport.

SUMMARY: Carolina Power and Light Company has requested that the City execute a right-of-way easement for the Asheville Regional Airport. The Airport Authority is in agreement that the easement be granted, but the precise location of the easement has not yet been determined. Pending preparation of the permanent easement, a letter authorizing entry has been requested. This resolution will authorize execution of the letter of entry pending preparation of the permanent easement and will further authorize execution of the permanent easement once final plans are complete.

Resolution Book No. 17 Page No. 179

E. Resolution No. 88-97 - Resolution authorizing the Mayor of the City of Asheville to execute any and all documents necessary for the new financing of the Pack Plaza Redevelopment Project.

SUMMARY: Pack Plaza Associates Limited Partnership has secured replacement financing for the Pack Plaza Redevelopment Project. As the City has entered into various agreements with the Partnership and holds security interests on the Project property, it is necessary to execute new documents in order to put the replacement financing in place. This resolution would authorize the Mayor to execute those documents on behalf of the City of Asheville.

Resolution Book No. 17 Page No. 180

Upon motion of Vice-Mayor Michalove, seconded by Councilman Martin, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

ANNOUNCEMENT OF MEETING - BUNCOMBE COUNTY COMMISSIONERS AND ASHEVILLE CITY COUNCIL - JUNE 23, 1988

Mayor Bissette announced that the Asheville City Council and Buncombe County Commissioners would be meeting at a joint meeting on Thursday, June 23, 1988 at 12:30 p.m. to discuss the Water Budget.

WALL STREET PARKING GARAGE - COMMENDATION TO WILLIAM F. WOLCOTT, JR.

Mayor Bissette commended William F. Wolcott, Jr., Associate City Manager/City Clerk, for his successful efforts on the completion of the Wall Street Parking Garage.

CLAIMS - CASSANDRA CHAMBERS (WATER) - KENNETH ENGLISH (WATER)

The City Manager presented claims received from Cassandra Chambers and Kenneth English.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP - KEEPING OF COUNCIL MINUTES

Ralph Bishop said he had received a memorandum from the City Attorney relative to N.C.G.S. 160A-72 relative to the keeping of Council minutes. He said in his opinion the keeping of the minutes should be full and accurate which means verbatim.

ADJOURNMENT:

Upon motion, the meeting adjourned at 5:55 p.m.

MAYOR

CITY CLERK

Tuesday - June 28, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Norma T. Price, Wilhelmina Bratton, Acting Corporation Counsel Patsy Brison; Assistant City Manager Charles Penny; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilmen Mary Lloyd Frank, Russell Martin and Walter Boland, City Manager Douglas O. Bean, and Corporation Counsel William F. Slawter.

INVOCATION

The invocation was given by Councilman Price.

APPROVAL OF MINUTES - JUNE 21, 1988 MEETING

Mayor Bissette announced the approval of the minutes of June 21, 1988 meeting as submitted.

DISCUSSION RELATIVE TO WATER BUDGET - FY 88-89

Councilman Price said she would have to leave the meeting very shortly due to a scheduled flight. She said she would leave the meeting unexcused in order for her votes to be counted in the affirmative.

J. Donald Williams, Chairman of the Water Authority's budget committee, reported that the Water Authority has reaffirmed its original recommendation to support a 15 percent increase in water rates in order to fund major water improvements. He also reported that the County Commissioners voted for a 10 percent rate hike rather than the 5 percent increase they proposed on June 21, with a stipulation that a cap on water revenues received by the two boards as their in lieu of tax payments be implemented July 1, 1989, rather than July 1 of this year.

A discussion was held relative to major projects that would have to be delayed if the rate increase is not 15 percent. They also discussed the financial risks involved in reducing the rate increase. It was noted that if the water projects are funded with a 10 percent increase this could leave an $800,000 deficit in the water fund balance that the City could end up paying. It was also noted that bond rating agencies would look unfavorably on the city's financial stability, which could jeopardize approval of a major bond referendum, if an agreement can not be reached and an interim water budget is adopted for the second year in a row.

After discussion, Vice-Mayor Michalove moved that Council's action of June 14 be reaffirmed approving the Water Budget for 1988-89 as submitted and recommended by the Asheville-Buncombe Water Authority which included a 15% increase without a cap on water revenues received by the City and the County. This motion was seconded by Councilman Bratton and carried unanimously.

I. PROCLAMATIONS:

A. Proclamation - July, 1988 - "Recreation and Park Month"

Mayor Bissette proclaimed the month of July, 1988 as "Recreation and Park Month", which was requested by the Parks, Recreation, and Public Facilities Department in order to urge all citizens to participate in the many recreation programs offered by the City of Asheville.

Mayor Bissette presented the proclamation to Ray Kisiah, Director of Parks, Recreation, and Public Facilities.

II. PUBLIC HEARINGS:

A. Public hearing relative to amending Section 30-11-4 of the Zoning Ordinance, Procedures for Group Developments.

Ordinance No. 1699 - Ordinance amending Section 30-11-4 of the Code of Ordinances of the City of Asheville (Group Development Procedure)

Mayor Bissette said the Asheville Planning and Zoning Commission on May 18, 1988, recommended approval of this amendment to City Council. It will facilitate the approval of group developments meeting certain criteria. Representatives of homeowners associations, Coalition of Asheville Neighborhoods, Council of Independent Business Owners, Home Builders Association, and other professional groups provided input at public hearings.

Mayor Bissette opened the public hearing at 4:48 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Julie Cogburn, Acting Planning Director, said this amendment would streamline the procedures for group developments. She said many of the revisions include clarifications and outlines specific procedures. She said one of the major revisions proposed is that the Planning Director reports

recommendations of the Planning and Zoning Commission to the Asheville City Council at the next meeting of Council after the Commission's meeting and the action of the Commission is final unless Council wants to have a hearing on the group development plan which must be held within three (3) weeks of the Commission's meeting. She said any action taken by the Commission is reported in a formal Council meeting and made a part of the minutes.

Mayor Bissette closed the public hearing at 4:50 p.m.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Vice-Mayor Michalove moved for the adoption of Ordinance No. 1699. This motion was seconded by Councilman Bratton.

On a roll call vote of 4-0, Ordinance No. 1699 passed on first reading.

B. Public hearing relative to group development review of "Asheville Terrace Apartments - Reconstruction" on Tunnel Road.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting on June 1, 1988, reviewed and approved the site plan of "Asheville Terrace Apartments - Reconstruction," subject to the following contingencies:

1) Variance on number of parking spaces required not to exceed ratio approved for existing project; and
2) Developer working with planning staff, prior to submission to City Council, on buffering requirement.

Mayor Bissette opened the public hearing at 4:51 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Julie Cogburn, Acting Planning Director, said the reconstruction project is a revamping of the previous apartments at 200 Tunnel Road which was destroyed by fire. She said the project would contain the same number of apartments. She said the Planning and Zoning Commission recommended a variance on the number of parking spaces required since it is for elderly apartments. She said the project's buffering plan meets the requirements of the buffering ordinance.

Jan Weigman, architect, outlined the details of the project.

Mayor Bissette closed the public hearing at 4:56 p.m.

Councilman Bratton moved to approve the group development plan for the Asheville Terrace Apartments - Reconstruction as recommended by the Planning and Zoning Commission. This motion was seconded by Vice-Mayor Michalove and carried unanimously.

RECESS - MEET WITH COUNTY COMMISSIONERS RELATIVE TO WATER BUDGET

Vice-Mayor Michalove moved that Council recess to meet with the County Commissioners relative to the 1988-89 Water Budget. This motion was seconded by Councilman Bratton and carried unanimously.

III. OLD BUSINESS:

A. Ordinance No. 1697 - Third reading of an ordinance amending Chapter 28, (Traffic) Article II, Section 28-51 of the Code of Ordinances of the City of Asheville prohibiting the parking of large trucks on City system streets.

Mayor Bissette said this ordinance will prohibit the parking of certain large trucks and buses, not occupied by a licensed operator, on City system streets.

Vice-Mayor Michalove moved to amend Ordinance No. 1697 by including a section to read as follows: "The City Manager or his designee is hereby authorized to permit temporary parking of vehicles on City system streets as he may deem appropriate in connection with construction related activities." This motion was seconded by Councilman Bratton and carried unanimously.

On a roll call vote of 4-0, Ordinance No. 1697, as amended, passed on third and final reading.

Ordinance Book No. 11 Page No. 289-290

B. Ordinance No. 1698 - Second reading of an ordinance regulating smoke detectors in residential occupancies.

Mayor Bissette said this ordinance amends the Asheville Fire Code by requiring that: 1) Smoke

detectors must be installed in any dwelling unit offered for rental or lease, including single-family homes; 2) In multi-dwelling buildings, smoke detectors must be installed in stairwells and common areas; 3) The owner of such units is responsible for installing, maintaining and repairing the smoke detectors; the tenant is responsible for reporting observed detector problems, and for preventing destruction and removal of the detector; 4) Smoke detectors must be installed in any dwelling unit offered for sale by the time sale closing or completion. The effective date of the ordinance - and its requirements - would be August 1, 1988.

On a roll call vote of 4-0, Ordinance No. 1698 passed on second reading.

IV. NEW BUSINESS:

A. **Ordinance No. 1700 - Year-end budget ordinance amendment.**

Mayor Bissette said this budget ordinance will establish and revise capital project budgets for items previously budgeted in the capital reserve fund. All items and funding have been previously approved by Council in the CIP, and to revise operating budgets as of June 30 to reflect changes in operating needs for the fiscal year.

Councilman Bratton moved for the adoption of Ordinance No. 1700. This motion was seconded by Vice-Mayor Michalove.

On a roll call vote of 4-0, Ordinance No. 1700 passed on first and final reading.

Ordinance Book No. 11 Page No. 297

B. **Resolution No. 88-98 - Resolution authorizing the City Manager to execute a contract with Haw Creek Volunteer Fire Department.**

Mayor Bissette said in accordance with state law, fire protection contracts have been successfully negotiated with three neighboring fire departments whose protection areas are affected by annexation--Haw Creek, Riceville and Reynolds Volunteer Fire Departments. According to law, each of these departments had the option of negotiating on the basis of a five-year joint-protection contract or a one-time debt "buy-out" on the part of the City. All three departments opted for the five-year lost-income-replacement contracts.

Upon motion of Vice-Mayor Michalove, seconded by Councilman Bratton, Resolution No. 88-98 was unanimously adopted.

Resolution Book No. 17 Page No. 181

C. **Resolution No. 88-99 - Resolution authorizing the City Manager to execute a contract with Reynolds Volunteer Fire Department.**

Mayor Bissette said in accordance with state law, fire protection contracts have been successfully negotiated with three neighboring fire departments whose protection areas are affected by annexation-- Haw Creek, Riceville and Reynolds Volunteer Fire Departments. According to law, each of these departments had the option of negotiating on the basis of a five-year joint-protection contract or a one-time debt "buy-out" on the part of the City. All three departments opted for the five-year lost-income-replacement contracts.

Upon motion of Vice-Mayor Michalove, seconded by Councilman Bratton, Resolution No. 88-99 was unanimously adopted.

Resolution Book No. 17 Page No. 182

D. **Resolution No. 88-100 - Resolution authorizing the City Manager to execute a contract with Riceville Volunteer Fire Department.**

Mayor Bissette said in accordance with state law, fire protection contracts have been successfully negotiated with three neighboring fire departments whose protection areas are affected by annexation-- Haw Creek, Riceville and Reynolds Volunteer Fire Departments. According to law, each of these departments had the option of negotiating on the basis of a five-year joint-protection contract or a one-time debt "buy-out" on the part of the City. All three departments opted for the five-year lost-income-replacement contracts.

Upon motion of Vice-Mayor Michalove, seconded by Councilman Bratton, Resolution No. 88-100 was unanimously adopted.

Resolution Book No. 17 Page No. 183

V. CONSENT:

A. **Resolution No. 88-101 - Resolution authorizing the filing of an application with the Department of**

Transportation, United States of America, for a grant under the Urban Mass Transportation Act of 1964, as amended.

SUMMARY: This is an annual operating assistance grant application with additional capital items that the Transit System needs at this date.

Resolution Book No. 17 Page No. 184-185

B. Resolution No. 88-102 - Resolution authorizing the filing of an application with the North Carolina Department of Transportation for State funds in support of the Capital Improvements Project.

SUMMARY: This is an annual operating assistance grant application with additional capital items that the Transit System needs at this date.

Resolution Book No. 17 Page No. 186

C. Approval of bids for one mobile concession cube for Parks, Recreation, and Public Facilities Department.

SUMMARY: Recommendation to award the bid for one mobile concession cube for the Parks, Recreation and Public Facilities to Century Industries, Inc., Sellersbury, Indiana, in the amount of $28,135 for a Century Industries model CC814R/W mobile concession cube.

(Bid Summary on file in Office of City Clerk)

D. Approval of bids for computer equipment for City of Asheville Police, Planning and Finance Departments.

SUMMARY: Recommendation to low bidders meeting specifications as follows: Computer Provisions Corporation, Solon, Ohio for bid items 3; 4; 5; 6 and 10 in the amount of $23,215.00; Executive Productivity Systems, Norfolk, Virginia for bid items 7 and 9 in the amount of $1,905.00 and Unisys Corporation, Charlotte, North Carolina for bid items 1; 2, and 8 in the amount of $9,699.20.

(Bid Summary on file in Office of City Clerk)

E. Resolution No. 88-103 - Resolution appointing member to the Asheville-Buncombe Historic Resources Commission.

SUMMARY: This resolution will reappoint Barbara Malloy as a member of the Asheville-Buncombe Historic Resources Commission.

Resolution Book No. 17 Page No. 187

F. Resolution No. 88-104 - Resolution appointing member to the Airport Authority.

SUMMARY: This resolution will reappoint Steven Woody as a member of the Asheville Regional Airport Authority.

Resolution Book No. 17 Page No. 188

G. Resolution No. 88-105 - Resolution appointing member to the Asheville Tree Commission.

SUMMARY: This resolution will reappoint Peter Gentling, Carlos Bickford, and Susan Roderick as members of the Asheville Tree/Greenway Commission.

Resolution Book No. 17 Page No. 189

H. Resolution No. 88-106 - Resolution appointing member to the Planning and Zoning Commission.

SUMMARY: This resolution will reappoint Augusta Young as a member of the Asheville Planning and Zoning Commission.

Resolution Book No. 17 Page No. 190

Upon motion of Vice-Mayor Michalove, seconded by Councilman Bratton, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

Pack Plaza and Pack Place Projects - Execution of Documents

Staff Attorney Patsy Brison requested additional authority for execution of documents with regard to the Pack Plaza and Pack Place projects. These documents would be recorded in conjunction with the closing of the replacement financing for the Pack Plaza Project.

Vice-Mayor Michalove moved to authorize City Attorney William F. Slawter, as Trustee, to execute subordination agreements, subordinating the City/County Deed of Trust and the UDAG Deed of Trust to the Bank of Scotland Deed of Trust and

subordinating the City/County Deed of Trust to the UDAG Deed of Trust. As a further part of the motion, Vice-Mayor Michalove moved to authorize the Mayor to execute on behalf of the City other documents, including agreements and conveyances, with regard to property agreements involving both the Pack Plaza and Pack Place projects. Councilman Bratton seconded the motion and which passed unanimously.

Claims - L.M. Hansen (Water) - Barry Doyle (Streets) - Ernest Hightower (Streets) - Eyes for You (Streets) - Helen Van Rensselaer (Water) - Hubert McMahan (Sewer)

The Assistant City Manager reported claims received from L.M. Hansen, Barry Doyle, Ernest Hightower, Eyes for You, Helen Van Rensselaer, and Hubert McMahan.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

Resolution No. 88-107 - Resolution authorizing the Mayor to make application for reallocated State Sewer Grant Funds for the City of Asheville Phase I Annexation - Sewer Improvement Project

Mayor Bissette said the State of North Carolina has appropriated grant funds for eligible sewer projects to counties and municipalities. There is an available balance of reallocated funds for the City of Asheville which must be reapplied for by June 30, 1988. The recently adopted City of Asheville Phase I Annexation-Sewer Improvement Project is such an eligible project. This resolution will authorize the Mayor to apply for said funds.

Upon motion of Vice-Mayor Michalove, seconded by Councilman Bratton, Resolution No. 88-107 was unanimously adopted.

Resolution Book No. 17 Page No. 191

Resolution No. 88-108 - Resolution authorizing the Mayor to make application for reallocated State Water Grant Funds for the City of Asheville Phase I Annexation - Water Improvement Project

Mayor Bissette said the State of North Carolina has appropriated grant funds for eligible water projects to counties and municipalities. There is an available balance of reallocated funds for the City of Asheville which must be reapplied for by June 30, 1988. The recently adopted Asheville-Buncombe Water Authority Phase I Annexation - Water Improvement Project is such an eligible project. This resolution will authorize the Mayor to apply for said funds.

Upon motion of Vice-Mayor Michalove, seconded by Councilman Bratton, Resolution No. 88-108 was unanimously adopted.

Motion to continue meeting - Thursday, June 30, 1988 - 2:30 p.m.

Vice-Mayor Michalove moved to continue the meeting until Thursday, June 30, 1988 at 2:30 p.m. to further discuss the Water Budget. This motion was seconded by Councilman Bratton.

MEETING RECONVENED - JUNE 30, 1988 - 2:30 P.M. - WATER BUDGET

The meeting was called to order at 2:30 p.m. in the Council Chambers. Present were Mayor Bissette, Vice-Mayor Michalove, Councilman Price and Councilman Frank. Thereafter a motion was made by Vice-Mayor Michalove and seconded by Councilman Price to recess from the formal meeting.

The meeting was thereafter reconvened at 3:30 p.m. in the meeting room of the Buncombe County Commissioners in the Buncombe County Courthouse. (Present were the Mayor and all Councilmembers except Councilman Bratton.) Thereafter a joint meeting took place with members of the City Council, members of the Buncombe County Commissioners and members of the Asheville-Buncombe Water Authority to discuss consideration and approval of the Water Authority's budget for Fiscal Year 88/89.

After discussion amongst members of the different governing bodies with regard to the Water Authority budget, each body conducted separate meetings.

It was moved by Councilman Frank and seconded by Councilman Martin that the City Council go into executive session to discuss a legal matter. The motion carried unanimously.

Thereafter the City Council returned from executive session. Councilman Martin moved to excuse Councilman Bratton from the meeting due to previously scheduled business responsibilities. A second was made by Councilman Price and the motion carried unanimously.

The separate governing boards then took separate actions on the Water Authority budget. The Water Authority voted to approve and recommend to the City and the County a 10% rate increase on water rates with the 88/89 budget reflecting those rates. The County Commissioners then approved that budget.

Councilman Price then reported that she voted for the 10% rate increase with the 88/89 budget reflecting that increase, as a member of the Water Authority, because there was sentiment on the Water Authority to raise rates thereafter and a 10% increase was better than no increase. If there were an increase in rates later in the upcoming fiscal year, the increase above that approved by the other governing bodies would go to unappropriated

fund balance and could not be spent without an amendment to the budget approved by all three bodies. Those funds would be allocated for projects as needed.

Councilman Price then moved that the City approve the 10% water rate increase and the Water Authority budget which would incorporate that rate increase. Councilman Boland seconded the motion.

Vice-Mayor Michalove offered a substitute motion. Prior to making the motion he stated that he was concerned about the Water Agreement. He felt that when the Water Agreement was negotiated last year that it was for a five year contract, but the Commissioners want to deal with other issues and it therefore does not appear to be a five year contract. He stated he was concerned about the City's loss of cash flow due to the change in the law enforcement formula by the County and other changes, resulting in an approximate $750,000 loss over a three year period. He was also concerned about the possibility of a cap being installed on payments to the City on gross water revenues, resulting in a further loss of money to the City. He felt that the sum total of all these losses would result in a 12 to 13 cent increase on ad valorem taxes.

Vice-Mayor Michalove then moved that the City approve the 10% rate increase for the Water Authority budget to avoid having to adopt an interim budget, but that the City and County by mutual agreement cancel the Water Agreement by July 1, 1989. The motion was seconded by Councilman Martin.

Thereafter a discussion was held on the substitute motion. Mayor Bissette stated that he could not support the substitute motion even though he shared the same frustrations as Vice-Mayor Michalove. He stated that he felt the spirit of the Water Agreement was no longer present and was willing to discuss termination of the Water Agreement if the Commissioners want to do so.

Councilman Boland stated that he was concerned with the picture as a whole and with the big bites being taken out of the Water Agreement. He could not, however, support the substitute motion.

Councilman Price stated that she could not support the substitute motion although she was concerned about the law enforcement formula and wants to see the audit information from the County's auditors. She is also concerned about the Water Agreement.

Councilman Frank stated that she could also not support the substitute motion.

Chairman Ratcliff of the County Commissioners asked to comment on the motion before the City Council. He stated that he

supported the Water Agreement and that if the City Council would look at the language of the Water Agreement that the County was not changing the contract with regard to the law enforcement formula. He felt it was unfair to blame the County for an increase in City taxes. He referred to various sections of the Water Agreement with regard to the law enforcement formula and the ability of the City and County to conduct independent audits.

Mayor Bissette stated that when the City negotiated the Water Agreement last year it relied upon the figures that had been formerly used for the law enforcement formula and did so in good faith. It appears that the City was too trusting since those figures have now been changed.

Chairman Ratcliff asked if the City would be willing for the auditors to discuss this issue and Mayor Bissette replied that the City would be willing to do so.

Thereafter Councilman Martin called for the question. A vote was taken on the substitute motion and it was defeated 2 to 4 with Vice-Mayor Michalove and Councilman Martin voting in favor of the motion.

Thereafter a vote was taken on the motion to adopt and approve the Water Authority budget reflecting a 10% water rate increase. It passed unanimously.

A motion to adjourn was made by Councilman Boland and seconded by Councilman Martin. It passed unanimously. The meeting was thereby adjourned at 6:10 p.m.

MAYOR

CITY CLERK

Tuesday - July 12, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, and Russell Martin, Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Walter Boland

INVOCATION

The invocation was given by Vice-Mayor Michalove.

APPROVAL OF THE MINUTES - JUNE 28, 1988

Mayor Bissette announced the approval of the minutes of the June 28, 1988 meeting as submitted.

I. PROCLAMATIONS:

A. Resolution No. 88-109 - Resolution in memory of Harold F. Robinson.

Mayor Bissette read a resolution in memory of Harold F. Robinson, former Chancellor of Western Carolina University, who recently passed away.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 88-109 was unanimously adopted.

Resolution Book No. 17 Page No. 193

II. PUBLIC HEARINGS:

III. OLD BUSINESS:

A. Continuation of a public hearing relative to closing Shawnee Trail.

Resolution No. 88-110 - Resolution to close Shawnee Trail.

Mayor Bissette said a petition has been filed by Centennial American Properties, Ltd. on behalf of The Litchfield Co. of South Carolina Ltd. Partnership requesting that Shawnee Trail be permanently closed to the public use.

Mayor Bissette opened the public hearing at 4:10 p.m.

Mayor Bissette asked to be excused from participation and vote on the issue involving Shawnee Trail due to a conflict of interest.

Councilman Price moved to excuse Mayor Bissette from participation and vote on the issue involving Shawnee Trail. This motion was seconded by Councilman Martin and carried unanimously.

Vice-Mayor Michalove left the meeting at 4:15 p.m. unexcused.

Councilman Price presided over the meeting during the Shawnee Trail issue.

Patty Tallerday, from the Planning Department, said the closing of Shawnee Trail is necessary for the group development proposal, Overlook Village. She said the Technical Review Committee reviewed the proposed closing and voiced no problem with the closing.

Councilman Price closed the public hearing at 4:28 p.m.

Councilman Price said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Bratton, seconded by Councilman Martin, Resolution No. 88-110 was unanimously adopted.

Resolution Book No. 17 Page No. 194-195

B. **Ordinance No. 1699 - Second reading of an ordinance amending Section 30-11-4 of the Zoning Ordinance, Procedures for Group Developments.**

Mayor Bissette said the Asheville Planning and Zoning Commission on May 18, 1988, recommended approval of this amendment to City Council. It will facilitate the approval of group developments meeting certain criteria. Representatives of homeowners associations, Coalition of Asheville Neighborhoods, Council of Independent Business Owners, Home Builders Association, and other professional groups provided input at our hearings. This ordinance was read on first reading on June 28, 1988.

Mayor Bissette said this ordinance was previously read on first reading and would not be reread in its entirety.

On a roll call vote of 6-0, Ordinance No. 1699 passed on second reading.

C. Ordinance No. 1698, Third reading of an ordinance amending Chapter 12, Fire Prevention and Protection, of the Code of Ordinances of the City of Asheville relative to smoke detectors.

Mayor Bissette said this ordinance amends the Asheville Fire Code by requiring that: 1) Smoke detectors must be installed in any dwelling unit offered for rental or lease, including single-family homes; 2) In multi-dwelling buildings, smoke detectors must be installed in stairwells and common areas; 3) The owner of such units is responsible for installing, maintaining and repairing the smoke detectors; the tenant is responsible for reporting observed detector problems, and for preventing destruction and removal of the detector; 4) Smoke detectors must be installed in any dwelling unit offered for sale by the time sale closing or completion. The effective date of the ordinance - and its requirements - would be August 1, 1988.

Mayor Bissette said this ordinance was previously read on first reading and would not be reread in its entirety.

On a roll call vote of 6-0, Ordinance No. 1698 passed on third and final reading.

Ordinance Book No. 11 Page No. 291-192

IV. NEW BUSINESS:

A. Sign permit request for off-premises advertising sign to be located at I-240 at Fairview Road.

Mayor Bissette said Holland Outdoor Advertising Company has requested approval of a sign permit for a 14' x 48' off-premises advertising sign to be located at I-240 and Fairview Road. This permit requires approval of Council since the sign will be situated closer than 600' from a limited access highway.

Mayor Bissette said consideration of the sign permit has been delayed until July 26, 1988 at the request of Holland Outdoor Advertising Company.

B. **Ordinance No.1701 - Ordinance rescinding Ordinance No. 1662 of the Code of Ordinances of the City of Asheville regarding fire sprinklers.**

Mayor Bissette said on November 10, 1988, the Council adopted Ordinance No. 1662, which dealt with use of sprinkler systems in lieu of second stairwells in certain historic buildings. State law requires the approval of the Building Code Council in order for such an ordinance to become effective. Following adoption of this ordinance, on the advice of experts in the architectural, engineering, and code enforcement fields, this matter was put to the Building Code Council as a proposal to amend the State Building Code, rather than approval of Asheville's local ordinance. That effort was successful. Therefore, there is no need for Ordinance No. 1662 and it needs to be rescinded.

Mayor Bissette said this ordinance was previously presented to members of Council and would not be read in its entirety.

Councilman Price moved for the adoption of Ordinance No. 1701. This motion was seconded by Councilman Martin.

On a roll call vote of 6-0, Ordinance No. 1701 passed on first reading.

Councilman Price moved to suspend the rules and proceed to the second reading of Ordinance No. 1701. This motion was seconded by Councilman Martin and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1701 passed on second reading.

Councilman Price moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1701. This motion was seconded by Councilman Frank and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1701 passed on third and final reading.

Ordinance Book No. 11 Page No. 298

C. **Resolution No. 88-111 - Resolution authorizing the Mayor to execute a municipal agreement with the North Carolina Department of Transportation to make certain street and highway improvements under Project 8.2841901 (SR 1781 (Broadway Avenue) from US 19-23 to Catawba Street).**

Mayor Bissette said this resolution will allow the City to enter into an agreement with the NC DOT to make certain street and highway improvements to Broadway Avenue from US 19-23 to Catawba Street.

Upon motion of Councilman Bratton, seconded by Councilman Frank, Resolution No. 88-111 was unanimously adopted.

Resolution Book No. 17 Page No. 196-197

D. Resolution stating the intent of the City of Asheville to consider the annexation of a portion of the area generally known as the Beaverdam Valley area, and fixing the date of a public hearing on the question of annexation.

SUMMARY: Pursuant to Chapter 160A of the North Carolina General Statutes the City of Asheville has examined certain areas to determine if they qualify for annexation. Certain statutory procedures are required for annexation. This resolution expresses Council's intent to annex the above mentioned property and schedules a public hearing on the question for August 30, 1988.

Mayor Bissette said action on this resolution would be postponed until July 26, 1988.

E. Resolution stating the intent of the City of Asheville to consider the annexation of a portion of the area generally known as the Hansel Avenue area, and fixing the date of a public hearing on the question of annexation.

SUMMARY: Pursuant to Chapter 160A of the North Carolina General Statutes the City of Asheville has examined certain areas to determine if they qualify for annexation. Certain statutory procedures are required for annexation. This resolution expresses Council's intent to annex the above mentioned property and schedules a public hearing on the question for August 30, 1988.

Mayor Bissette said action on this resolution would be postponed until July 26, 1988.

F. Resolution stating the intent of the City of Asheville to consider the annexation of a portion of the area generally known as the Hansel Avenue North area, and fixing the date of a public hearing on the question of annexation.

SUMMARY: Pursuant to Chapter 160A of the North Carolina General Statutes the City of Asheville has examined certain areas to determine if they qualify for annexation. Certain statutory procedures are required for annexation. This resolution expresses Council's intent to annex the above mentioned property and schedules a public hearing on the question for August 30, 1988.

Mayor Bissette said action on this resolution would be postponed until July 26, 1988.

V. CONSENT:

A. Resolution No. 88-112 - Resolution authorizing the Mayor of the City of Asheville to sign the annual certification of firemen.

SUMMARY: North Carolina's General Statutes, Ch. 118-38, requires certified fire departments to record the names of their firefighters with the North Carolina Firemen's Pension Fund. This certification requires official City Council action.

Resolution Book No. 17 Page No. 198

B. Scheduling of public hearing relative to zoning property on Tunnel Road to CH Commercial Highway District for July 26, 1988.

SUMMARY: The Asheville Planning and Zoning Commission on June 29, 1988, reviewed and recommended approval of zoning a 1.3 acre tract (previously NCDOT right-of-way) lying between I-240 and Lot 12, Sheet 21, Ward 8, to CH Commercial Highway District. The purpose of the request is to make the entire tract between US 74 and I-240 CH Commercial Highway District for the purpose of constructing the Overlook Village Shopping Center.

Upon motion of Councilman Martin, seconded by Councilman Frank, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

ANNOUNCEMENT RELATIVE TO APPEAL OF CHESTNUT-LIBERTY HISTORIC DISTRICT LAWSUIT DECISION

Mayor Bissette announced that during the pre-council work session members of Council discussed the appeal of a decision relative to the Chestnut-Liberty Historic District lawsuit. He said during the vote on the district there were members who supported the district and members who did not support the district. However, the discussion did not center around whether or not anyone supported the district but the procedures used in establishing the district. He said after discussion the City Attorney was instructed to appeal the decision of the lawsuit.

REPORT RELATIVE TO INTERGOVERNMENTAL SERVICES COMMITTEE MEETING

Councilman Frank reported that the Intergovernmental Services Committee met on July 5, 1988. She said Commissioner Montgomery furnished the members with information requested at the prior meeting. She said the committee discussed the Metropolitan Police Force, dealing with the 911 emergency number, and requested that the City Manager and John Creighton, Planning Director, for the County come back to the committee with a report in August.

Zoning for the two-three mile perimeter in the area of the new shopping center being constructed in the west was discussed and the commissioners said they would not make a suggestion for zoning but the members of the community should have input into the zoning.

She said the commissioners were interested in a joint city/county purchasing agreement and the city and county purchasing directors will be discussing this matter.

She said it was suggested that the position of the Environmental Control Officer remain with the County as stipulated in the Water Agreement. Councilman Price said the Environmental Control Officer is not a part of the Water Agreement.

She said they discussed the County participating in the cost of cleaning up tax lots. The commissioners said they would be willing to help with the cost but would like to do so at the time of the sale of the property.

She said the commissioners requested that the council members give them a list of items in the Water Agreement which they feel are double taxation items.

She said the next meeting for the Intergovernmental Services Committee would be on August 2, 1988.

SALE OF DISPOSAL PARCELS 79 AND 108A - EAST RIVERSIDE REDEVELOPMENT PROJECT

The City Manager presented a recommendation from the Housing Authority for the sale of Disposal Parcels 79 and 108A in the East Riverside Redevelopment Project. He said Parcel 79 would be sold to Diana L. Geter for $900 and Parcel 108A would be sold to Marion Presha in the amount of $1,200. He said the lots are located on Ora Street and will be developed for single family residences in cooperation with WNC Habitat for Humanity.

Councilman Martin moved to approve the recommendation of the Housing Authority for the sale of Disposal Parcels 79 and 108A. This motion was seconded by Councilman Price and carried unanimously.

CLAIMS - GAY MORGAN (SEWER) - JACK SMITH (PARKING SERVICES) - ROBERT LILLY (POLICE) - JESSIE REED (PARKS)- ANNABELLE GREEN (STREETS) - DEBBIE MORGAN (WATER)

The City Manager presented claims received from Gay Morgan, Jack Smith, Robert Lilly, Jessie Reed, Annabelle Green, and Debbie Morgan.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP - MINUTES OF COUNCIL MEETINGS

Ralph Bishop again spoke to members of Council relative to his opinion that Council keep verbatim minutes.

ADJOURNMENT

Upon motion the meeting adjourned at 4:55 p.m.

MAYOR

CITY CLERK

Tuesday - July 19, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Russell Martin, and Walter Boland; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Wilhelmina Bratton

INVOCATION

The invocation was given by Councilman Frank.

APPROVAL OF MINUTES - JULY 12, 1988

Mayor Bissette announced the approval of the minutes of July 12, 1988 meeting as submitted.

I. PROCLAMATIONS:

A. Proclamation - "Welcome Wagon 60th Birthday Week" - Week of July 25, 1988.

Mayor Bissette read the proclamation and presented a copy to Lucibra Britt from the Welcome Wagon. He also recognized Nancy Ellis, Margaret Yanik, Rosa Lee Davidson, and Joyce Sergeant.

II. PUBLIC HEARINGS:

A. Public hearing relative to closing a portion of Syrlin Street.

Resolution No. 88-113 - Resolution closing a portion of Syrlin Street.

Mayor Bissette said a petition was received from Norman C. Bradford, Virginia Bradford, and others requesting that a portion of Syrlin Street be permanently closed to the public use. The petition requested that a portion of Syrlin Street between Tax Lots 178 and 13-1/4 of Ward 9, Sheet 7, be closed as a public street right of way.

Mayor Bissette opened the public hearing at 4:14 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Julia Cogburn, Acting Planning Director, said the closing of this portion of Syrlin Street is in connection with the Beaver Lake Villas being constructed on Long and Syrlin Street and the request of the residents in the area.

Mayor Bissette noted that the closing of this portion of Syrlin Street would make certain that there would be no ingress or egress from Syrlin Street into the Beaver Lake Villas.

Mayor Bissette closed the public hearing at 4:16 p.m.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Councilman Martin moved for the adoption of Resolution No. 88-113 contingent upon any necessary easements the City may need. This motion was seconded by Vice-Mayor Michalove and carried unanimously.

Resolution Book No. 17 Page No. 199-200

III. OLD BUSINESS:

A. Ordinance No. 1699 - Third reading of an ordinance amending Section 30-11-4 of the Zoning Ordinance, Procedures for Group Developments.

Mayor Bissette said the Asheville Planning and Zoning Commission on May 18, 1988, recommended approval of this amendment to City Council. It will facilitate the approval of group developments meeting certain criteria. Representatives of homeowner's associations, Coalition of Asheville Neighborhoods, Council of Independent Business Owners, Home Builders Association, and other professional groups provided input at our hearings.

Mayor Bissette said it has been recommended that the ordinance be amended to delete the portion of the ordinance stating that the Planning Director shall report the final recommendation of the Planning and Zoning Commission at the next scheduled pre-Council work session of the Asheville City Council in order that these recommendations can be presented at the regular City Council meetings.

Councilman Price moved to amend Ordinance No. 1699 to provide that the recommendations of the Planning and Zoning Commission be presented at the regular

City Council meetings. This motion was seconded by Councilman Frank.

Vice-Mayor Michalove made a substitute motion to leave the ordinance as it is now written to avoid City Council from holding another public hearing on issues since the actions taken during pre-Council meetings would also be reported in regular session. He said this would avoid individuals from thinking they have to make an entire new presentation of their projects to members of Council.

After discussion, Vice-Mayor Michalove suggested that the third reading of Ordinance No. 1699 be tabled for one week giving members of Council an opportunity to discuss the section in question.

Councilman Price withdrew her motion to amend the ordinance and Councilman Frank agreed.

It was noted that the third reading of Ordinance No. 1699 would be scheduled for July 26, 1988.

IV. NEW BUSINESS:

A. Sale of Disposal Parcel 220B in the East Riverside Redevelopment Project.

Mayor Bissette and Vice-Mayor Michalove requested that they be excused from participation and vote on the sale of Disposal Parcel 220B in the East Riverside Redevelopment Project due to a conflict of interest.

Councilman Price moved to excuse Mayor Bissette and Vice-Mayor Michalove from participation and vote on the sale of Disposal Parcel 220B in the East Riverside Redevelopment Project. This motion was seconded by Councilman Martin and carried unanimously.

Councilman Price presided over the meeting during the action taken on Disposal Parcel 220B.

Councilman Price said the Housing Authority has tentatively accepted the following bid for Disposal Parcel 220B in the East Riverside Redevelopment Project:

Reuse	Price	Bid	Redeveloper
Office Institutional	$12,100	$12,120	Livingston Medical Partnership

Disposal Parcel 220B is located on Livingston Street and will be developed along with the adjoining

property under contract to the redeveloper as a medical office complex.

Councilman Frank moved to approve the recommendation of the Housing Authority relative to the sale of Disposal Parcel 220B in the East Riverside Redevelopment Project. This motion was seconded by Councilman Martin and carried unanimously.

B. Ordinance No. 1702 - Ordinance amending Section 28-52 (b) of Chapter 28 of the Code of Ordinances of the City of Asheville relative to prohibiting truck traffic on Beverly Road.

Mayor Bissette said this action will include Beverly Road, between Tunnel Road and New Haw Creek Road, in the ordinance regulating truck traffic on certain residential streets.

The City Manager said this ordinance is in conjunction with a petition from the residents in the Beverly Road area. He said the Public Works Department has investigated this petition and recommends the adoption of this ordinance.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Boland moved for the adoption of Ordinance No. 1702. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1702 passed on first reading.

V. CONSENT:

A. Approval of bids for one (1) fifty foot snorkel "Telesqurt" on Fire Department Engine No. 6.

SUMMARY: Award of bid request for furnishing and installing one (1) fifty (50) foot Snorkel "Telesqurt" model B5042 (aerial ladder/waterway unit) on Fire Department Engine No. 6 is recommended to the low bidder, Snorkel-Economy, St. Joseph, Missouri, in the amount of $82,910.00.

B. Resolution No. 88-114 - Resolution authorizing the City Manager to execute a contract with Executone Piedmont, Inc. to perform maintenance of the City's SL-1N Telecommunications System.

SUMMARY: This contract is to perform maintenance of the City's telephone equipment for a period of five years effective June 1, 1988. The contract provides coverage for 24 hours a day, 7 days a week. A technician will be on site at the City each normal working day to check the system for problems.

Resolution Book No. 17 Page No. 201

(. Resolution No. 88-115 - Resolution authorizing the City Manager to enter into an agreement with the Chamber of Commerce.

SUMMARY: Continuation of agreement with the Chamber of Commerce to provide services for development and promotion of small business, industrial growth, visitor inquiry, convention development, etc.

Resolution Book No. 17 Page No. 202

J). Resolution No. 88-116 - Resolution authorizing the City Manager to enter into an agreement with the Community Relations Council.

SUMMARY: Continuation of agreement with the Asheville-Buncombe Community Relations Council for human relations services, Federal Compliance services, Affirmative Action/E.E.O. support and training services, etc.

Vice-Mayor Michalove said there is language in the agreement that the Community Relations Council will evaluate the Affirmative Action Plan. He said he would like for the board or a representative group of the board to be included in this process. He also requested that the City Manager look into funding being provided to the Community Relations Council and the YMI Cultural Center, Inc. for minority business development and how these two agencies relate in that aspect.

Resolution Book No. 17 Page No. 203

K. Resolution No. 88 - 117 - Resolution authorizing the City Manager of the City of Asheville to enter into a contract for the construction of a public restroom facility on the First Floor of the City Hall Building.

SUMMARY: Clement and Blount, Inc. submitted to lowest responsible bid in the amount of

$58,380. Recommendation to accept this bid.

Resolution Book No. 17 Page No. 204

F. Resolution No. 88-118 - Resolution appointing members to the Asheville Tree/Greenway Commission.

SUMMARY: This resolution will reappoint Roger Smith for a three (3) year term. Also will appoint Henry Arch Nichols and Rebecca Norris for three (3) year terms.

Resolution Book No. 17 Page No. 205

G. Resolution No. 88-119 - Resolution appointing member to the Recreation Board.

SUMMARY: This resolution will appoint Nancy Boland for a three (3) year term.

Resolution Book No. 17 Page No. 206

H. Resolution No. 88 -120 - Resolution appointing members to the City of Asheville Police Officers and Firefighter's Disability Review Board.

SUMMARY: The Asheville City Council adopted Ordinances 1650 and 1674 establishing the Asheville Police Officers and Firefighter's Disability Review Board for former members of the Asheville Policemen's Pension and Disability Fund and the Asheville Firemen's Pension and Disability Fund. The Disability Review Board is to consist of a member of the Asheville City Council to serve as Chairman; a current member of the Asheville Police Department, elected by former members of the Asheville Policemen's Pension and Disability Fund; a current member of the Asheville Fire Department, elected by former members of the Asheville Firemen's Pension and Disability Fund; a licensed medical doctor; the City Manager or his designee; and two members at large chosen by the City Council. On October 23, 1987 an election was held by the former members of the Asheville Policemen's Pension and Disability Fund, whereby Jay Hill Breedlove was elected to the Board to serve a two (2) year term. On April 22,

1988 an election was held by the former members of the Asheville Firemen's Pension and Disability Fund, whereby Rayburn E. Whitt was elected to the Board to serve a two (2) year term.

This resolution will also appoint Dr. John A Henderson, Douglas R. Franklin, and Captain John A. Best for two (2) year terms.

Resolution Book No. 17 Page No. 207 and 208

I. Resolution No. 88-121 - Resolution appointing member to the Zoning Board of Adjustments.

SUMMARY: This resolution will appoint Michelle Rippon for a three (3) year term.

Resolution Book No. 17 Page No. 209

J. Scheduling public hearing relative to proposed wording amendment to Asheville Zoning Ordinance, Section 30-9-4, District Sign Regulations for August 9, 1988.

SUMMARY: The Asheville Planning and Zoning Commission on June 29, 1988, reviewed and recommended approval of amending the Asheville Zoning Ordinance, Section 30-9-4. District Sign Regulations, Subparagraph (D)(1) by adding a new item (b) as follows: "(b) Off-premise advertising signs three hundred (300) square feet per display face or less shall be allowed only in the CH Commercial Highway District, CS Commercial Service District, LI Light Industrial District and HI Heavy Industrial District.

K. Scheduling public hearing relative to request of Thoms Rehabilitation Hospital to rezone property from R-3 Residential District to OI Office Institutional District for August 9, 1988.

SUMMARY: The Asheville Planning and Zoning Commission on June 29, 1988, reviewed and recommended approval of rezoning Ward 7, Sheet 15, Lots 81, 82, and 231, and Ward 7, Sheet 11, Lot 20, from R-3 Residential District to OI- Office Institutional District. (Property extends from One Rotary Drive over to Caribou Road)

Upon motion of Vice-Mayor Michalove, seconded by Councilman Frank, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

VICE-MAYOR MICHALOVE - REQUEST OF CORPORATION COUNSEL TO RESEARCH WATER AGREEMENT

Vice-Mayor Michalove requested that the Corporation Counsel research language in the Water Agreement dealing with financing of improvements with bonds in the future. He asked that the language be reviewed to determine whether or not the City can break the Water Agreement if there is a bond issue city-wide or county-wide.

CITY MANAGER AUTHORIZED TO SIGN AGREEMENTS/LEASES IN CONNECTION WITH BELE CHERE FESTIVAL

At the request of the City Manager, Councilman Price moved to authorize the City Manager to execute various agreements and leases in connection with the Bele Chere Festival, with said documents being subject to the approval of the City Attorney. This motion was seconded by Councilman Frank and carried unanimously.

MINNIE JONES - PISGAH VIEW APARTMENTS - RELATIVE TO DRUG PROBLEMS AT HILLCREST APARTMENTS

Minnie Jones from the Pisgah View Apartments said she was concerned about how the current problems at Hillcrest Apartments are going to affect Pisgah View Apartments. She said the problems with drugs at the Hillcrest Apartments should have been handled in a better manner. She said the Housing Authority is well aware of all these problems and how the problems at Pisgah View Apartments have increased since the opening of the Police substation at Hillcrest Apartments to deal with the drug problems.

Mayor Bissette and members of Council said they were concerned about the drug problems all over the City and they are working as best they can on the problem. It was noted that the Metropolitan Enforcement Task Group was formed to deal with these problems. They said they would continue working on the problems.

JEANNIE EBLEN - REQUEST FOR ADOPTION OF RESOLUTION RELATIVE TO A MORATORIUM ON NUCLEAR TESTING AND FOR THE SUPPORT OF A COMPREHENSIVE TEST BAN TREATY

Jeannie Eblen with Peace Link made a presentation to members of Council requesting Council's adoption of a resolution relative to a moratorium on nuclear testing and for the support of a Comprehensive Test Ban Treaty. She also presented information to members of Council relative to commemorating

August 5th as the 25th anniversary of the Partial Test Ban Treaty; the cost to taxpayers for nuclear testing; and local groups, city, county and state legislatures that have passed resolutions calling for a mutual moratorium on nuclear testing. She read the proposed test ban resolution.

Mayor Bissette and several members of Council said they did not know enough about national defense and nuclear testing to adopt the proposed resolution. It was noted that the President, Congress, and the Senate should deal with concerns on national defense issues. It was also noted that perhaps members of Council could adopt a similar resolution with Council's own language that everyone could support in a positive manner.

It was suggested that Council look at the request for adoption of the resolution to see if Council could come up with language that all Council members can agree upon.

Susan Walker commented that the President and members of Congress needs everyone's support, even on national defense issues.

RALPH BISHOP - LOTTERY SALES IN THE CITY - RECORDING OF CITY COUNCIL MINUTES

Ralph Bishop again spoke to members of Council relative to lottery sales at Riverside Tire Shop at 704 Riverside Drive operated by J. V. Plemmons.

He also commented on his request to receive additional information relative to General Statute 160A.72 relative to the keeping of full and accurate minutes.

Councilman Price noted that minutes are only to reflect actions taken by Council.

CLAIMS - WILLIAM SMITH (PARKS) - FAYE YAOKUM (WATER) - CLARENCE MORGAN (SEWER) - VIVIAN ABDUL-ALLAH (PARKS) - DON BLANKENSHIP (SANITATION)- JOANNE HYATT (STREETS)

The City Manager presented claims received from William Smith, Faye Yaokum, Clarence Morgan, Vivian Abdul-Allah, Don Blankenship, and Joanne Hyatt.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

LAWSUITS - MINI STORAGE COMPANY V. BOARD OF ADJUSTMENT - RHONDA DILLINGHAM V. CITY OF ASHEVILLE AND ASHEVILLE TRANSIT AUTHORITY

The City Manager said the City was served with lawsuits involving A Mini Storage Company v. Board of Adjustment of the City of Asheville (Appeal of Board of Adjustment decision) and Rhonda Dillingham v. City of Asheville and Asheville Transit Authority (Fall on ice getting onto bus).

Mayor Bissette referred the lawsuits to the Corporation Counsel for investigation and recommendation.

MEMBERS OF COUNCIL TO VISIT THE HILLCREST POLICE SUBSTATION AND TO MEET WITH RESIDENTS OF HILLCREST APARTMENTS

Mayor Bissette announced that after the meeting members of Council would be attending the opening of the Hillcrest Apartments Police Substation and to meet with residents of Hillcrest Apartments.

ADJOURNMENT:

Mayor Bissette adjourned the meeting at 5:25 p.m.

MAYOR

CITY CLERK

Tuesday - July 26, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, and Russell Martin; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Deputy City Clerk Carol Hensley.

Absent: Councilman Walter Boland and Associate City Manager/City Clerk William F. Wolcott, Jr.

INVOCATION

The invocation was given by Councilman Bratton.

APPROVAL OF MINUTES - JULY 19, 1988 MEETING

Mayor Bissette announced the approval of the minutes of the July 19, 1988 meeting as submitted.

I. PROCLAMATIONS:

A. Presentation by Housing Authority - Payment-in-lieu-of-taxes.

David Jones, Executive Director of the Housing Authority, and Mrs. Peggy Shook, Chairman of the Housing Authority, presented the Mayor with a check in the amount of $45,620.02 as payment-in-lieu-of-taxes. Mrs. Shook said the Housing Authority is the only nonprofit organization that presents the City with a payment-in-lieu-of-taxes check to help the City provide the very essential services such as garbage pick up; police, and fire protection.

Mayor Bissette told Mr. Jones and Mrs. Shook that the Council is proceeding with the ideas generated from the residents of Hillcrest Apartments relative to drug problems in the area. He said Council hopes to present a proposal next week to deal with this problem in which the Housing Authority will be an integral part.

Mr. Jones said the Housing Authority has also been working closely with the Hillcrest Apartment residents and is beginning many new programs to deal with this problem. He mentioned a Cadet Program for individuals to work in conjunction with law enforcement personnel. He said they would continue to work on this problem on a county-wide basis.

II. PUBLIC HEARINGS:

A. Public hearing relative to zoning property on Tunnel Road to CH Commercial Highway District.

Ordinance No. 1703 - An Ordinance amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville," as amended, petition of Attorney Douglas Thigpen, property located on Tunnel Road.

Mayor Bissette said the Asheville Planning and Zoning Commission on June 29, 1988, reviewed and recommended approval of zoning a 1.3 acre tract (previously NCDOT right-of-way) lying between I-240 and Lot 12, Sheet 21, Ward 8, to CH Commercial Highway District. The purpose of the request is to make the entire tract between US 74 and I-240 CH Commercial Highway District for the purpose of constructing the Overlook Village Shopping Center.

Mayor Bissette opened the public hearing at 4:21 p.m.

The Deputy City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Mayor Bissette requested that he be excused from participation and vote on the zoning issue on Tunnel Road due to his law firm representing the developer.

Vice-Mayor Michalove moved to excuse Mayor Bissette from participation and vote on the zoning issue. This motion was seconded by Councilman Price and carried unanimously.

Vice-Mayor Michalove chaired the meeting during the Tunnel Road zoning issue.

Julia Cogburn, Acting Director of Planning, said this property has never been zoned because it was N. C. Department of Transportation right-of-way. She said this would be the initial zoning for this property in conjunction with the proposed Overlook Shopping Center project. She said the area proposed to be zoned Commercial Highway consists of 1.3 acres.

Upon inquiry of Councilman Price, Ms. Cogburn said the property to be zoned in not in the flood plain area.

Vice-Mayor Michalove closed the public hearing at 4:25 p.m.

Vice-Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Frank moved for the adoption of Ordinance No. 1703. This motion was seconded by Councilman Martin.

On a roll call vote of 5-0, Ordinance No. 1703 passed on first reading.

III. OLD BUSINESS:

A. **Ordinance No. 1699 - Third reading of an ordinance amending Section 30-11-4 of the Zoning Ordinance, Procedures for Group Developments.**

Mayor Bissette said the Asheville Planning and Zoning Commission on May 18, 1988, recommended approval of this amendment to City Council. It will facilitate the approval of group developments meeting certain criteria. Representatives of homeowner's associations, Coalition of Asheville Neighborhoods, Council of Independent Business Owners, Home Builders Association, and other professional groups provided input at our hearings. This ordinance was read on first reading on June 28, 1988.

After discussion, Councilman Price moved to amend Ordinance No. 1699 by changing Section 30-11-4 (f) to read as follows: "The Planning Director shall report the final recommendation of the Planning and Zoning Commission at the next scheduled regular meeting of the Asheville City Council. The action of the Planning and Zoning Commission shall then be final unless the City Council determines at that meeting to schedule a public hearing on the matter at one of its regularly scheduled meetings, no later than three (3) weeks from that date, unless a different date is consented to by the parties." This motion was seconded by Councilman Frank and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1699, as amended passed on third and final reading.

Ordinance Book No. 11 Page No. 293-296

B. **Ordinance No. 1702 - Second reading of an Ordinance amending Section 28-52 (b) of Chapter 28 of the Code of Ordinances of the City of Asheville relative to prohibiting truck traffic on Beverly Road.**

Mayor Bissette said this action will include Beverly Road, between Tunnel Road and New Haw Creek Road, in the ordinance regulating truck traffic on certain residential streets.

Mayor Bissette noted that this would not prohibit trucks doing business in the area, such as delivery trucks, from using the streets.

On a roll call vote of 6-0, Ordinance No. 1702 passed on second reading.

IV. NEW BUSINESS:

A. Sign permit request for off-premises advertising sign to be located at I-240 at Fairview Road.

Mayor Bissette said Holland Outdoor Advertising Company has requested approval of a sign permit for a 14' x 48' off-premises advertising sign to be located at I-240 and Fairview Road. This permit requires approval of Council since the sign will be situated closer than 600' from a limited access highway.

Julia Cogburn, Acting Director of Planning, said pursuant to Section 30-9-4 of the Zoning Ordinance any sign to be erected within 600' of a limited access highway must be approved by Council. She said Holland Outdoor Advertising originally requested approval of a 672 square foot per face off-premises advertising sign at I-240 and Fairview Road. She said they have amended that request to a 300 square foot per face off-premises advertising sign. She said the sign would be located 50' from the railroad spur, 75' from I-240, and 25' from the right-of-way line.

Gary Rowe, Attorney representing Holland Outdoor Advertising Company, requested Council's approval of the sign permit stating that the sign would be a low impact, informational/directional sign in a highly commercial area. He said the sign would not be a large density advertising sign. He said the sign would be lighted and 40' in height.

A resident of 3 Vineyard Place, spoke in opposition to approval of the sign permit stating that the recently created Sign Commission would be submitting recommendations to Council in the near future and billboards on the interstate is not within the guidelines of their proposed recommendations.

Linn Brown, 62 Macon Avenue, a member of the Sign Commission, said the sign would be inappropriate and one of the proposed recommendations of the Sign Commission would be that no more billboards be allowed on the interstate. She said a moratorium on signs should be established until the Sign Commission gives their recommendations to Council.

Susan Roderick, a member of the Asheville Tree/Greenway Commission, spoke in opposition to the sign permit. She said the Tree/Greenway Commission is currently working with the North Carolina Department of Transportation to have the area in question planted.

Randall Davis also spoke in opposition to billboards on the interstate.

In rebuttal, Gary Rowe said his client is not trying to rush into the Asheville area and put up signs before recommendations of the Sign Commission are presented to Council. He said the sign would comply with all current ordinances and would comply with Council's direction in erecting this sign. He said the only reason the sign permit request is before Council is that it will be situated closer than 600' from I-240. He said, otherwise, the sign meets all code requirements.

Upon inquiry of Councilman Bratton, the City Attorney said Council has no specific responsibility at this time as far as the Sign Commission is concerned. He said no specific standards are included in the Zoning Ordinance for approval/disapproval by Council of signs to be situated within 600' of a limited access highway.

Councilman Price urged members of Council not to approve the request for the sign permit.

Councilman Martin suggested that Council postpone action on the sign permit request until the Sign Commission presents their recommendations.

Vice-Mayor Michalove and Councilman Bratton suggested that since there is no moratorium on signs at this time that anytime there is a sign permit request on Council's agenda that all Sign Commission members be notified.

After discussion, Councilman Price moved that the sign permit request from Holland Outdoor Advertising Company for an off-premises advertising

sign at I-240/Fairview Road be denied. This motion was seconded by Councilman Frank and carried unanimously.

B. Resolution No. 88-122 - Resolution stating the intent of the City of Asheville to consider the annexation of a portion of the area generally known as the Beaverdam Valley area, and fixing the date of a public hearing on the question of annexation.

Mayor Bissette said pursuant to Chapter 160A of the North Carolina General Statutes the City of Asheville has examined certain areas to determine if they qualify for annexation. Certain statutory procedures are required for annexation. This resolution expresses Council's intent to annex the above mentioned property and schedules a public hearing on the question for September 13, 1988.

City Manager Doug Bean said it is staff's recommendation, after investigation, to delete the property known as "Beaverdam Run" from the annexation at this time. He said it has been determined that the area including Beaverdam Run Condominium Complex, which is now under construction, does not qualify because it includes too much vacant land and not enough people per acre. He said it is also staff's recommendation to review the area known as Beaverdam Run in July, 1989 for annexation since the condominiums would then be contiguous to the newly annexed area and could be brought into the corporate limits as soon as 90 days after the effective date of the original annexation.

Patty Tallerday, from the Planning Staff, reviewed the boundaries of the proposed annexation in the Beaverdam Valley area. She said the area presently includes a 22.3 acre tract, known as the Wolcott property. She said if Council decides to include the Wolcott property the property would qualify on a 69% basis. She said if the Wolcott property is deleted the property would still qualify on a 66.9% basis.

Vice-Mayor Michalove requested that the City Manager furnish members of Council with a memorandum outlining staff's recommendation relative to Beaverdam Run Condominiums being deleted from the annexation proposal.

Upon inquiry of Council, the City Manager said it would be his recommendation to include large undeveloped property during the annexation process

if the area would still qualify for annexation to avoid insurmountable problems of annexing the property in the future.

The City Attorney noted that the boundary description follows lot lines since the natural topographical features would not be practical in this particular annexation.

At the request of Council, Patty Tallerday presented members of Council with a financial summary for the proposed annexation of the Beaverdam Valley area. She said the total population at this time for the Beaverdam Valley area is 1,102.

Councilman Price requested that the staff compare the present zoning in the Beaverdam Valley area with zoning districts in the City. She also commented that perhaps a new zoning district could be created for property such as Beaverdam Valley to keep the rural residential atmosphere of that area. She said the area should be zoned as compatible as practical.

Ralph Bishop spoke in opposition to the annexation stating that Council would be annexing property without the owner's consent.

Upon motion of Vice-Mayor Michalove, seconded by Councilman Price, Resolution No. 88-122 was unanimously adopted.

Resolution Book No. 17 Page No. 210-211

C. **Resolution No. 88-123 - Resolution stating the intent of the City of Asheville to consider the annexation of a portion of the area generally known as the Hansel Avenue area, and fixing the date of a public hearing on the question of annexation.**

Mayor Bissette said pursuant to Chapter 160A of the North Carolina General Statutes the City of Asheville has examined certain areas to determine if they qualify for annexation. Certain statutory procedures are required for annexation. This resolution expresses Council's intent to annex the above mentioned property and schedules a public hearing on the question for September 13, 1988.

Patty Tallerday, with the Planning Staff, reviewed the boundaries of the proposed annexation of the Hansel Avenue Area. She said this is basically a

closure of the current corporate limits. She said the area includes 48 homes and qualifies for annexation on a population basis. She summarized the financial summary for the Hansel Avenue area annexation and presented members of Council with a copy of the summary.

Councilman Martin said he was not in favor of the annexation of this property since the City would never recover their capital costs. He said in his opinion this is not an economical viable project. He said the residents are not asking to be annexed and this would not be in the best interest of the citizens of Asheville. He said this is not using tax dollars to the best advantage.

Mayor Bissette said he understood Councilman Martin's feelings about this annexation, however, the annexation would benefit the residents of that area and the City should also consider that fact.

Councilman Price said she would favor the annexation to close the current corporate limits. She said the financial summary is not an accurate account since the revenues do not include water and sewer revenues.

Vice-Mayor Michalove requested that the city staff look at whether the new water and sewer lines proposed for the area would also benefit other areas currently in the corporate limits. He also requested that the city staff determine the water source for the proposed area.

Upon inquiry, the City Manager said the capital costs for water and sewer are included in capital improvements in the Water and Sewer budgets. He said the Water Authority has included in their budgets the city's three year annexation plans.

Councilman Bratton said in her opinion overall annexations by the City would have a positive impact.

Upon motion of Councilman Price, seconded by Councilman Bratton, Resolution No. 88-123 was adopted on a voice vote of 5-1, with Councilman Martin voting "no".

Resolution Book No. 17 Page No. 212-213

D. **Resolution No. 88-124 - Resolution stating the intent of the City of Asheville to consider the annexation of**

a portion of the area generally known as the Plemmons property, and fixing the date of a public hearing on the question of annexation.

Mayor Bissette said pursuant to Chapter 160A of the North Carolina General Statutes the City of Asheville has examined certain areas to determine if they qualify for annexation. Certain statutory procedures are required for annexation. This resolution expresses Council's intent to annex the above mentioned property and schedules a public hearing on the question for September 13, 1988.

Patty Tallerday, with the Planning Department, said this proposed annexation is also a closure of current corporate limits. She said the area includes one commercial and one residential lot and would require no city services. She said 650' of water line is proposed for the area. She said no sewer line is proposed since it has been determined that it would be cost prohibitive. She said the area is completely surrounded by the current corporate limits.

Upon motion of Councilman Frank, seconded by Councilman Michalove, Resolution No. 88-124 was unanimously adopted.

Resolution Book No. 17 Page No. 214-215

V. CONSENT:

A. Resolution No. 88-125 - Resolution authorizing the Mayor to execute a Municipal Agreement with the North Carolina Department of Transportation for performing right-of-way appraisals on Murdock Avenue, Thompson Street and Hazel Mill Road, Federal Aid Bridge Replacement Projects within the corporate limits of Asheville.

SUMMARY: This agreement will allow the North Carolina Department of Transportation , Right-of-Way Appraisal Office, to appraise right-of-way for Hazel Mill Road, Murdock Avenue, and Thompson Street Bridge projects. The City will reimburse N.C.D.O.T. for their cost in appraisals at 100%. The City will be reimbursed 80% of this cost back through the Federal Highway Administration of System Bridge Project.

Resolution Book No. 17 Page No. 216

B. **Scheduling of public hearing relative to Phase II, Westgate Shopping Center for August 16, 1988.**

SUMMARY: The Asheville Planning and Zoning Commission on June 29, 1988, reviewed and approved the site plan for Phase II of Westgate Shopping Center, subject to the following conditions:

1) Letter from N.C. Department of Transportation approving entrance;
2) Signage package in compliance with Zoning Ordinance; and
3) Closing of portions of Cliff Street.

C. **Scheduling of public hearing relative to Overlook Village Shopping Center for August 16, 1988.**

SUMMARY: The Asheville Planning and Zoning Commission on June 29, 1988, reviewed and approved the site plan subject to the following conditions: 1) Letters of approval from NCDOT, FEMA, TVA, and Corp of Engineers prior to any grading on site; 2) Easements from Asheville Federal Savings & Loan and K-Mart; 3) Redesign of secondary entrance road to establish right turns only; 4) Outparcels to be reviewed separately by Asheville Planning and Zoning Commission; 5) Closing of Shawnee Trail by City Council; 6) Zoning of NCDOT right-of-way by City Council; 7) Resubmit landscape to AP&ZC for screening rear of buildings as much as possible from I-240; and 8) Sign contingencies as stated by staff (a. variance need on 1:1 ratio based on store frontage for attached signs per tenant, b. variances needed on 4' projecting signs per tenant, c. freestanding sign within 600' of right-of-way approved by City Council, d. outparcel signage to be reviewed by AP&ZC when needed, and e. Identification signs for outparcel A.- no freestanding sign, outparcel B. - freestanding sign 8' high, 75 square foot per face, and outparcel C. - freestanding sign 25' high, 100 square feet per face).

D. **Scheduling of public hearing relative to Wal-Mart Store on Tunnel Road for August 16, 1988.**

SUMMARY: The Asheville Planning and Zoning Commission on June 29, 1988, reviewed and approved the site plan subject to the following conditions: 1) Compliance with Erosion Control Ordinance; 2) Final approval from NCDOT on driveway location; 3) Encroachment agreement with NCDOT for stormwater drainage; 4) Signed easement agreements with Brenco, Inc., Arthur York and Sea-Nic Enterprises; 5) Variance granted for a 10' rear and 8' side setback - setback necessary for location of eastern corner of building and loading dock; and 6) Compliance with buffering ordinance by adding three trees in parking lot.

Upon motion of Councilman Frank, seconded by Councilman Martin, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

INTERGOVERNMENTAL SERVICES COMMITTEE MEETING - AUGUST 2, 1988

Councilman Frank noted that the Intergovernmental Services Committee would be meeting at 12:30 p.m. on Tuesday, August 2, 1988.

MEETINGS SCHEDULED IN NEWLY ANNEXED AREAS - SOUTH, HAW CREEK, AND EAST ASHEVILLE

The City Manager said in gearing up for the new annexation of the south area, Haw Creek, and property in East Asheville, the City staff would be sending out information packets on July 29, 1988 to include a newsletter, a city services brochure, a downtown parking brochure, and a recycling brochure to provide all the information possible to the new residents. He said newsletters to the residents would be going out July 29, August 29, September 16, and October 5, 1988. He said they would also have a "Mobile City Hall" with city staff available at T. C. Roberson High School Parking Lot on August 29 and September 12; Haw Creek Volunteer Fire Department on August 31 and September 14; and Poseidon Restaurant, Highway 70, on September 1 and September 15, 1988. He said there would also be one main telephone number in City Hall for the residents to call for information.

CLAIMS - KENNY REED (PARKS) - STEPHEN LANCASTER (STREETS) - WALTER L. KING (WATER) - MRS. MICHAEL HOBBS (WATER)

The City Manager presented claims received from Kenny Reed, Stephen Lancaster, Walter L. King, and Mrs. Michael Hobbs.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

DISCUSSION - ASHEVILLE MALL CONSTRUCTION

The City Attorney said, at the request of the City Manager, he had reviewed the minutes of the Planning and Zoning Commission and the Asheville City Council relative to the approval of the site plan for the Asheville Mall Expansion Project to determine if there are any violations of the contingencies place upon the approval of the Project. In addition, he stated that he had discussed the matter with members of the Planning staff. Although the Planning staff had reported that as of Friday, July 22 there had been no disturbance of the twenty-foot buffer within the area in question, that even if there were a disturbance in that area, the buffering ordinance does not require that existing vegetation remain. He further stated that some areas of the site plan did specifically require that existing vegetation remain, but not in the area where grading and cutting of trees had taken place. Since the site plan did not include specific requirements at the area in question, he concluded that the requirements imposed upon the developer were as set forth in the buffering ordinance.

Councilman Price said she had visited the site and she continued to question whether the developer is violating any ordinances. She said it seems that the developer has graded within one foot of the residential property.

Mayor Bissette said there may not be a technical violation but for all intent and purposes there may be a non-technical violation because it was not Council's intent for the grading to be that close to the residential property or for the 20' existing buffer to be cut. He said the City would make sure the developer complies with all ordinances of the City including the buffering, zoning and erosion control ordinances.

Harold Payne, of 299 White Pine Drive, and Co-Chairman of the Kenilworth Forest Homeowner's Association, said the residents of this area have been continuously fighting the Asheville Mall developer over many suspected violations since the Mall was first constructed. He reviewed the background of the problems the residents have had with the developer.

Randall Davis said it should be City Council's responsibility to protect the residents in the area of the Asheville Mall.

Vice-Mayor Michalove noted that evidently there has been some misunderstanding in administrative procedures. He said he was under the impression that when Council approves a site plan and instructs that the Planning staff approve the landscaping plans that all aspects of buffering are evaluated. He said apparently the staff has only been evaluating landscaping

around the project rather than the entire buffering and landscaping. He said perhaps City Council needs to look at the ordinances or the manner in which site plans are approved to broaden the scope of evaluations of landscaping and buffering.

After discussion, Mayor Bissette said the City staff would do everything that needs to be done to assure that the developer abides by every letter of the law in the development.

Councilman Price requested that members of Council visit the area in question and view the site from the residential area.

RICHARD MATHEWS - PRESIDENT OF THE NEWLY ORGANIZED ALBEMARLE/MANOR GROUNDS NEIGHBORHOOD ASSOCIATION

Richard Mathews, Acting President of the newly organized Albemarle/Manor Grounds Neighborhood Association, appeared before Council to inform them of the new organization. He said the association is in the process of drafting a letter to the City to express their interest in working with the City, Quality Forward, and all other government agencies in addressing some of the concerns of the residents in the area.

ADJOURNMENT:

Mayor Bissette adjourned the meeting at 7:00 p.m.

MAYOR

CITY CLERK

Tuesday - August 2, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, and Russell Martin; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Walter Boland

INVOCATION

The invocation was given by Councilman Martin.

APPROVAL OF THE MINUTES - JULY 26, 1988

Mayor Bissette announced the approval of the minutes of the July 26, 1988 meeting would be postponed until August 9, 1988.

I. PROCLAMATIONS:

A. Proclamation - Thursday, August 4, 1988 - "Lifeguard Competition and Celebrity Belly Flop Day."

Mayor Bissette read the proclamation and presented a copy to Mary Ritter, John Teeter, and Jack Cecil with the American Red Cross.

II. PUBLIC HEARINGS:

III. OLD BUSINESS:

A. Ordinance No. 1703 - Second reading of an ordinance relative to zoning property on Tunnel Road to CH Commercial Highway District.

Mayor Bissette said the Asheville Planning and Zoning Commission on June 29, 1988, reviewed and recommended approval of zoning a 1.3 acre tract (previously NCDOT right-of-way) lying between I-240 and Lot 12, Sheet 21, Ward 8, to CH Commercial Highway District. The purpose of the request is to make the entire tract between US 74 and I-240 CH Commercial Highway District for the purpose of constructing the Overlook Village Shopping Center.

On a roll call vote of 5-0, Ordinance No. 1703 passed on second reading.

B. Ordinance No. 1702 - Third reading of an Ordinance amending Section 28-52 (b) of Chapter 28 of the Code of Ordinances of the City of Asheville relative to prohibiting truck traffic on Beverly Road.

Mayor Bissette said this action will include Beverly Road, between Tunnel Road and New Haw Creek Road, in the ordinance regulating truck traffic on certain residential streets.

On a roll call vote of 6-0, Ordinance No. 1702 passed on third and final reading.

Ordinance Book No. 11 Page No. 299

IV. NEW BUSINESS:

V. CONSENT:

A. Resolution No. 88-126 - Resolution authorizing the City Manager to execute an agreement with the YMI Cultural Center, Inc.

SUMMARY: Continuation of agreement with YMICC for economic development services.

Resolution Book No. 17 Page No. 217

B. Resolution No. 88-127 - Resolution authorizing City Manager to execute a right-of-way Agreement between the City of Asheville and Rotha B. Bailey and wife, Leona Bailey.

SUMMARY: The intersection and drainage pipe at Raleigh Road and School Road need improving to prevent automobiles and school buses from dropping off the road shoulder and damaging the curb, drainage structure and private property. The right-of-way being conveyed to the City by Mr. and Mrs. Bailey will allow the drainage pipe to be extended and the intersection radius on the southwest corner to be increased to eliminate the existing problems.

Resolution Book No. 17 Page No. 218

C. Resolution No. 88-128 - Resolution appointing member to the Asheville-Buncombe Historic Resources Commission.

SUMMARY: This resolution will appoint Richard Mathews as a member of the Asheville-Buncombe Historic Resources Commission.

Upon motion of Councilman Frank, seconded by Councilman Price, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

REPORT - INTERGOVERNMENTAL SERVICES COMMITTEE

Councilman Frank said the Intergovernmental Services Committee met today, August 2, 1988, at 12:30 p.m. She said County Commissioners Montgomery and Sobol were in attendance. She said the committee discussed a Central Communications System in relation to the 911 Emergency Number. She said a report would soon be given to members of Council. She said they also discussed the proposed establishment of the Drug Task Force.

Councilman Martin said everyone in attendance at the meeting had a very helpful attitude and seemed interested in offering solutions to problems.

Mayor Bissette noted that a meeting would be held on August 9, 1988 at the Asheville Civic Center Banquet Room at 12:30 p.m. - 2:00 p.m. to discuss the establishment of the Drug Task Force. He said many local officials and citizens have been invited to this meeting.

RESOLUTION NO. 88-129 - RESOLUTION SUGGESTING AN APPROACH TO A WORLDWIDE NUCLEAR TEST BAN

Vice-Mayor Michalove read a resolution suggesting an approach to a worldwide nuclear test ban.

Upon motion of Vice-Mayor Michalove, seconded by Councilman Frank, Resolution No. 88-129 was unanimously adopted.

RESOLUTION NO. 88-130 - RESOLUTION APPOINTING MEMBER TO THE TOURISM DEVELOPMENT AUTHORITY (CHARLES CLAMURRO - QUALITY INN ON THE PLAZA)

Mayor Bissette presented a resolution appointing Charles Clamurro, General Manager of the Quality Inn on the Plaza to the Tourism Development Authority for a three (3) year term, term expiring August 30, 1991.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 88-130 was unanimously adopted.

CLAIMS - LORA CAUTHEN (INSPECTIONS) - MAXINE JONES (SEWER) - CLYDE SWANN (SEWER) - RACHEL PLEMMONS (WATER) - KEITH KNOX FIRE) - JAMES NABER (STREETS)

The City Manager presented claims received from Lora Cauthen, Maxine Jones, Clyde Swann, Rachel Plemmons, Keith Knox, and James Naber.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

ANNEXATION PACKAGES BEING DELIVERED TO NEWLY ANNEXED RESIDENTS

The City Manager noted that annexation packages containing information about the City of Asheville services are being delivered to the residents of the newly annexed areas.

RALPH BISHOP - COMMENTS RELATIVE TO INSTITUTE OF GOVERNMENT - LOTTERY SALES IN THE CITY OF ASHEVILLE

Ralph Bishop asked the City Attorney how the Institute of Government was established. He also spoke to members of Council relative to lottery sales in the City of Asheville.

The City Attorney told Mr. Bishop he would find out how the Institute of Government was established.

ADJOURNMENT:

Upon motion, the meeting adjourned at 4:45 p.m.

MAYOR

CITY CLERK

Tuesday - August 9, 1988 - 4:00 P.M.

Regular Meeting

Present: Vice-Mayor Kenneth M. Michalove, Presiding; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton (Was late arriving at the meeting - 4:24 P.M.), and Russell Martin; Staff Attorney Patsy Brison; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Mayor W. Louis Bissette and Councilman Walter Boland; City Attorney William F. Slawter

INVOCATION

The invocation was given by Councilman Price.

MINUTES - AUGUST 2, 1988 MEETING

Upon motion of Councilman Price, seconded by Councilman Martin, the minutes of the August 2, 1988 meeting were unanimously approved.

MINUTES - JULY 26, 1988 MEETING

Approval of the minutes of the July 26, 1988 meeting was deferred until August 16, 1988.

I. PROCLAMATIONS:

A. RESOLUTION NO. 88-131 - RESOLUTION OF APPRECIATION TO RETIRED ASHEVILLE FIREFIGHTERS

Vice Mayor Michalove said during he past year, nine Asheville firefighters have retired from active duty. They were Charles F. Jennings, Bruce L. Calloway, Carl C. Messer, Clifford S. Smathers, Bruce A. Duckett, Harley B. Sampson, Charles W. Burnette, Guy F. Justice, Jr., and Carvel G. Whitt. He said these firefighters contributed immeasurably to the safety and well-being of everyone in Asheville. He said it is customary to retire the badge of a firefighter who has rendered honorable service, and the plaques presented to these firefighters will bear those badges.

Vice Mayor Michalove said members of Council were previously furnished copies of the resolution and it would be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 88-131 was unanimously adopted.

Vice Mayor Michalove presented a copy of the resolution and plagues to the retired firefighters.

Fire Chief John Rukavina thanked the Council for the honor bestowed on the firefighters.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO A PROPOSED WORDING AMENDMENT TO ASHEVILLE ZONING ORDINANCE, SECTION 30-9-4, DISTRICT SIGN REGULATIONS

ORDINANCE NO. 1704

Vice Mayor Michalove said the Asheville Planning and zoning Commission on June 29, 1988, reviewed and recommended approval of amending the Asheville Zoning Ordinance, Section 30-9-4. District Sign Regulations, Subparagraph (D)(1) by adding a new item (b) as follows: "(b) Off-premise advertising signs three hundred (300) square feet per display face or less shall be allowed only in the CH Commercial Highway District, CS Commercial Service District, LI Light Industrial District and HI Heavy Industrial District.

Vice Mayor Michalove opened the public hearing at 4:20 P.M.

The City Clerk presented the notice to the public and the affidavit of publication.

Julia Cogburn, Acting Director of Planning, said the proposed wording amendment is just a simple housekeeping item and clarification for off premises signs of 300 sq. ft. or less. Staff does recommend adding CG Commercial General to the list of districts where such signs are permitted. She said the enforcement of the ordinance in the past has been in accordance with today's requested amendment.

Mr. Frank Graham, Attorney for Naegle Outdoor Advertising Company, requested that the ordinance be further clarified to include the following phrase at the end of subsection (b) "...except as specified in subsection (a) above."

Vice Mayor Michalove asked that staff look at the change requested by Mr. Graham and make a recommendation to the Council at next week's meeting. In addition, the staff recommendation would be included in an amendment at that time.

Vice Mayor Michalove closed the public hearing at 4:17 P.M.

Vice Mayor Michalove said copies of the ordinance were previously distributed to members of council and the ordinance would not be read in its entirety unless there was a specific request to do so.

Councilman Martin moved for the adoption of Ordinance No. 1704. This motion was seconded by Councilman Price.

On a roll call vote of 4-0, Ordinance No. 1704 passed on first reading.

B. PUBLIC HEARING RELATIVE TO REZONING PROPERTY FROM ONE ROTARY DRIVE OVER TO CARIBOU ROAD FROM R-3 RESIDENTIAL DISTRICT TO OI OFFICE INSTITUTIONAL DISTRICT

ORDINANCE NO. 1705

Vice Mayor Michalove said the Asheville Planning and Zoning Commission on June 29, 1988, reviewed and recommended approval of rezoning Ward 7, Sheet 15, Lots 81, 82, and 231, and Ward 7, Sheet 11, Lot 20, from R-3 Residential District to OI-Office Institutional District. (Property extends from One Rotary Drive over to Caribou Road)

Vice Mayor Michalove opened the public hearing at 4:18 P.M.

The City Clerk presented the notice to the public and the affidavit of publication.

Julia Cogburn, Acting Director of Planning, said the property is currently owned and operated by Thoms Rehabilitation Hospital. She said the property is located off Sweeten Creek Road and a portion of it extends down to Caribou Road. She said the property to the North and South is zoned HI-Heavy Industrial, the property to the South is zoned R-3 Residential and the property to the West is zoned R-3 Residential and LI-Light Industrial. Even though there is no other OI-Office Institutional zoning in the area, she said staff felt this was not a problem because of the particular nature of the use and size of the property.

Mrs. Cogburn said the requested rezoning is in accordance with the Comprehensive Plan and that the 57 surrounding property owners were notified of today's hearing. She said only one opposition had been received - from a Mr. Bedford Tomberlin, 183 Belvedere Road (Lot 183), who had phoned in and not specified a particular opposition to the proposed rezoning.

Councilman Price voiced concern about the impact the OI designation would have on density in the area since this zoning classification permits 32 units per acre. She also mentioned the impact of additional traffic on Caribou Road.

Charles Norvell, President of Thoms Rehabilitation Hospital, said the Hospital has entrances off London and Sweeten Creek Road, and that he didn't perceive any traffic coming onto the campus from Caribou Road.

Councilman Bratton arrived at the meeting at 4:24 P.M.

Vice Mayor Michalove closed the public hearing at 4:25 P.M.

Vice Mayor Michalove said copies of the ordinance were previously distributed to members of Council, and the ordinance would not be read in its entirety unless there was a specific request to do so.

Councilman Price moved for the adoption of Ordinance No. 1705. This motion was seconded by Councilman Martin.

On a roll call vote of 5-0, Ordinance No. 1705 passed on first reading.

III. OLD BUSINESS:

A. RESOLUTION NO. 88-132 - RESOLUTION ADOPTING BEAVERDAM VALLEY PLAN FOR THE EXTENSION OF MAJOR CITY SERVICES

Vice Mayor Michalove said a report of plans for extending services to the Beaverdam Valley territory to be annexed is required by N. C. Gen. Stat. sec. 160A-47 to be approved at least thirty (30) days prior to the date of public hearing on the question of annexation.

Patty Tallerday of the Planning Department said the Police Department will add 3 sworn officers to provide police protection services to the Beaverdam area. She said these officers will be assigned to the police force in general and will help carry the load in criminal investigations, community services, record keeping and communications.

Ms. Tallerday said Station #7 on Merrimon Avenue will be the primary provider of fire protection services. She said an additional 4-wheel drive pumper truck will be added to Station #7's inventory due to the mountainous terrain of the Beaverdam Valley as well as other steep sections in the City. Additional communications equipment will be purchased. She said the City is also prepared to offer to negotiate a 5-year contract with the Beaverdam Volunteer Fire Department for fire services if the Board of Directors wants to provide these services for the first 5 years.

Ms. Tallerday said the City will purchase one (1) sway car, (1) tractor loader and one (1) leaf machine to provide solid waste collection services to the Beaverdam area. She said the solid waste services can be provided with existing personnel by rerouting the garbage collection routes.

Ms. Tallerday said there are approximately 6 miles of state system streets that will become City system streets for the purposes of maintenance services such as snow removal, pothole repair, etc. She said there are also approximately two miles of private streets that do qualify for dedication to the City system. She said maintenance cost for these streets has also been included in the cost of services. In addition, she

said, there are other private streets that will have to be dedicated on a street-by-street basis. Ms. Tallerday said the dedication process calls for the property owners to sign a petition. However, she said, one of the criteria to dedicate the street calls for the street to be 17-20 feet in width with easements granted to the City. If improvements are made to bring the streets to this width or if they are currently this width, they can be dedicated and accepted by the City. She said any improvements made to bring the streets up to the required criteria are at the expense of the property owners.

Ms. Tallerday said the estimated cost for providing street lighting services to the Beaverdam area is $17,000. She said this is based on providing a pole for street lighting every 250 feet.

Ms. Tallerday said water and sewer line improvements in the Beaverdam were going to be expensive. She said the City plans to install approximately 20,000 linear feet of 6-inch water line at a cost of $672,000 and approximately 12,000 linear feet of 8-inch sewer line at a cost of $842,000.

Upon inquiry of Vice Mayor Michalove relative to transit services, Ms. Tallerday said the City normally requests the Transit Authority to restudy annexed areas for possible re-routing or additional routes.

Vice Mayor Michalove noted that on Page 7 of the "Plan" that first year costs were anticipated at $431,174 while estimated revenue is expected to be $365,837.

Vice Mayor Michalove said members of Council were previously furnished with copies of the resolution, and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Price, seconded by Councilman Bratton, Resolution No. 88-132 was unanimously adopted.

Resolution Book No. 17 - Page 223

B. **RESOLUTION NO. 88-133 - RESOLUTION ADOPTING HANSEL AVENUE PLAN FOR THE EXTENSION OF MAJOR CITY SERVICES**

Vice Mayor Michalove said a report of plans for extending services to the Hansel Avenue territory to be annexed is required by N. C. Gen. Stat. sec. 160A-47 to be approved at least thirty (30) days prior to the date of public hearing on the question of annexation.

Patty Tallerday of the Planning Department said the Hansel Avenue area contains approximately 130 people and comprises approximately 46 acres. She said police, fire and solid waste services will be provided with existing personnel and

equipment. She said Station #3 on Louisiana will be the primary provider of fire protection services with backup coming from Station #6 on Haywood Road and Headquarters. She said Hansel Avenue is presently not a part of any fire protection district.

Ms. Tallerday said there are 1.1 miles of state system streets that will become City system streets for the purposes of maintenance services such as snow removal, pothole repair, etc. She said there are also approximately .2 miles of private streets that do qualify for dedication to the city system. She said the City anticipates a capital cost of $49,000 for paving and maintenance of the dirt roads in this area.

Ms. Tallerday said an analysis of the existing water lines revealed a 6-inch water line on Hazel Mill Road and a 2-inch line on Hansel Avenue. She said 5,420 linear feet of 6-inch water line will be added to the Hansel Avenue area at a projected cost of $163,000. Ms. Tallerday said the Hansel Avenue is served by a 6-inch sanitary sewer along Hazel Mill Road. She said installation of 5,020 linear feet of 8-inch sewer line is planned at an estimated cost of $351,000, which will benefit only the Hansel Avenue area.

Ms. Tallerday said the first year cost of services is expected to be $68,515 and annual operating costs are projected at $13,711. She said annual revenue is expected to be $17,682.

Vice Mayor Michalove said members of Council were previously furnished with copies of the resolution, and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Bratton, seconded by Councilman Price, Resolution No. 88-133 was adopted with Councilman Martin voting "no".

Resolution Book 17 - Page 224

C. **RESOLUTION NO. 88-134 - RESOLUTION ADOPTING PLEMMONS AREA PLAN FOR THE EXTENSION OF MAJOR CITY SERVICES**

Vice Mayor Michalove said a report of plans for extending services to the Plemmons territory to be annexed is required by N. C. Gen. Stat. sec. 160A-47 to be approved at least thirty (30) days prior to the date of public hearing on the question of annexation.

Patty Tallerday of the Planning Department said this area contains two individual tax lots and is located North of the Hansel Street area. She said this area was left out of the City when the Hilton petitioned for annexation. She said the area will not require any additional city services, annual operating cost or capital costs. However, she said, the City does plan an improvement to the water line. This area is currently served by a 2-inch line along Plemmons Drive, and the City proposes to upgrade this line to a 6-inch line - approximately 650 linear feet - at a cost of $19,500. She said anticipated revenue is $1,000 per year.

Vice Mayor Michalove said members of Council were previously furnished with copies of the resolution, and it would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Frank, seconded by Councilman Frank, Resolution No. 88-134 was unanimously adopted.

Resolution Book No. 17 - Page 225

D. ORDINANCE NO. 1703 - THIRD READING OF AN ORDINANCE RELATIVE TO ZONING PROPERTY ON TUNNEL ROAD TO CH COMMERCIAL HIGHWAY DISTRICT

Vice Mayor Michalove said this is the final reading of this ordinance relative to zoning property on Tunnel Road to CH Commercial Highway District. He said the purpose of the request is to make the entire tract between US 74 and I-240 CH Commercial Highway District. The property was formerly owned by the N.C. Department of Transportation for right-of-way and was not previously zoned. As it is now owned by private property owners it therefore needs to be zoned. He said this ordinance passed on first reading on July 26, 1988 and passed on second reading on August 2, 1988.

Vice Mayor Michalove said this ordinance was previously read on first and second readings, and it would not be re-read in its entirely unless there was a specific request to do so.

On a roll call vote of 5-0, Ordinance No. 1703 passed on third and final reading.

Ordinance Book No. 11 - Pages 300 and 301

IV. NEW BUSINESS:

V. CONSENT:

VI. OTHER BUSINESS:

A. CLAIMS - MORNA MOORE (WATER); ALTHEA HENSLEY (SEWER); JAMES RIVERS (WATER); AND WILLIAM WICK (WATER)

The City Manager presented claims received form Morna Moore, Althea Hensley, James Rivers, and William Wick.

Vice Mayor Michalove referred the claims to the City Attorney for investigation and recommendation.

B. JULIA COGBURN - REPORT OF GROUP DEVELOPMENT ACTIONS BY THE PLANNING AND ZONING COMMISSION

Julia Cogburn, Acting Director of Planning, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. She said in accordance with the new procedure, the action of the Commission shall be

final unless the City Council determines at their meeting to schedule a public hearing on the matter. She said the following action was taken by the Planning and Zoning Commission at their meeting on August 3, 1988.

(1) APPALACHIAN STOVE AND FABRICATORS, INC. - ADDITION TO BUILDING

Mrs. Cogburn said the Asheville Planning and Zoning Commission on August 3, 1988, reviewed and recommended approval of the group development plans of Appalachian Stove and Fabricators, Inc. for an addition to their building subject to the following conditions:

a) A building line setback variance of 10' being granted to front on Emma Road;

b) A parking lot paving variance being granted to apply to both existing and newly constructed parking lots;

c) An access easement being granted from the Eaven-Brice Partnership property to the west;

d) Approval of fire flows, water pressure and hydrant location by the Fire Department;

e) Approval of an erosion control plan by the City Engineering Department with special attention to Porshia property line and stabilization of slope;

f) Approval of a drainage control plan for the site by the City Engineering Department;

g) The driveway being paved from Emma Road into the north parking lot;

h) That buffer plantings and parking lot trees comply with Sec. 30-3-14. of Zoning Ordinance; and

i) Compliance with N. C. State Building Code requirements relative to automatic fire protection for buildings of this size.

Mrs. Cogburn said three (3) public comments were received opposing the group development. These were from Iona Goforth, 323 Emma Road (Lot 21), opposed to addition; Faron Porshia, speaking for self (Lot 48), for Father (Lot 24) and Ms. Goforth (Lot 21) - objection to amount of fill dirt brought into site and fill dirt running onto his property, concern with extent of slope at southeast portion of building, concern with traffic problems created by employees, and opposed to setback variance being granted; and Wayne Butler (Lots 18 and 19) concern about noise, including burglar alarm and drainage problems from site.

Councilman Price said due to the number of conditions set forth by the Planning and Zoning Commission in granting their approval, she would prefer to have a public hearing on this group development. She moved to schedule a public hearing on the matter for Tuesday, August 23, 1988. This motion was seconded by Councilman Bratton and carried unanimously.

(2) SEVIER STREET APARTMENTS - PHASE II (GROUP DEVELOPMENT)

Mrs. Cogburn said the Asheville Planning and Zoning Commission on August 3, 1988, reviewed and recommended approval of the group development plans of Sevier Street Apartments - Phase II subject to the following conditions:

a) City approval of Erosion Control Plan;

b) Construction of stream channel to be as designed by developer and approved by City (July 27, 1988 letter in file);

c) Elevation of first floors more than two feet above base flood elevations;

d) Concrete driveway provided to City specifications;

e) Storm drainage approved by City Engineer; and

f) Erosion control facilities to remain a part of storm drainage plan approved by City Engineer.

Mrs. Cogburn said no opposition was received prior to or at the meeting, and that this group development had been unanimously approved by the Planning and Zoning Commission.

The City Council took no action on this site plan, making the action of the Planning and Zoning Commission final.

C. FIRE CHIEF JOHN RUKAVINA - INVITATION TO VISIT THE CONFERENCE OF THE N. C. FIRE CHIEFS AND N. C. FIREMEN'S ASSOCIATION AT THE INN ON THE PLAZA

Fire Chief John Rukavina said the Council had adopted a resolution extending an invitation to the N. C. Fire Chiefs and N. C. Firemen's Association to hold their annual meeting in Asheville. He said the meeting will begin at 9:00 A.M. on Thursday and will continue through Saturday at the Inn on the Plaza. He invited Council to stop by and visit at any time during the meeting.

D. RALPH BISHOP - CLARIFICATION OF REQUEST TO BILL SLAWTER FOR COPY OF LAW CREATING THE INSTITUTE OF GOVERNMENT

Ralph Bishop requested that staff pass on a clarification to City Attorney Bill Slawter that he had asked for a copy of the law establishing and creating the Institute of Government.

ADJOURNMENT:

Upon motion of Councilman Frank, seconded by Councilman Martin, the meeting adjourned at 4:53 P.M.

MAYOR

CITY CLERK

Tuesday - August 16,1988 - 4:00 P.M.

Regular Meeting

Present: Vice-Mayor Kenneth M. Michalove, Presiding; Councilmen Mary Lloyd Frank, Wilhelmina Bratton, (seated at 4:20 p.m.), Russell Martin, and Walter Boland; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Mayor W. Louis Bissette and Councilman Norma T. Price

INVOCATION

The invocation was given by Councilman Walter Boland.

APPROVAL OF MINUTES - AUGUST 9, 1988 MEETING

Upon motion of Councilman Boland, seconded by Councilman Frank, the minutes of the August 9, 1988 meeting were approved as submitted.

APPROVAL OF MINUTES - JULY 26, 1988 MEETING

Approval of the minutes of the July 26, 1988 meeting were withheld pending possible changes by Councilman Bratton.

I. PROCLAMATIONS:

A. Proclamation - "Women at Work" - Week of August 21, 1988.

Vice-Mayor Michalove read the proclamation and presented a copy to Judy Nagle, Coordinator for Women at Work, and Ellen Clarke-Sayer, Project Chairperson.

II. PUBLIC HEARINGS:

A. Public hearing relative to Phase II, Westgate Shopping Center.

Vice-Mayor Michalove said the Asheville Planning and Zoning Commission on June 29, 1988, reviewed and approved the site plan for Phase II of Westgate Shopping Center, subject to the following conditions:

1) Letter from N.C. Department of Transportation approving entrance;

2) Signage package in compliance with Zoning Ordinance; and

3) Closing of portions of Cliff Street.

Vice-Mayor Michalove opened the public hearing at 4:12 p.m.

The City Clerk presented the notice to the public setting the time and date of the public hearing and the affidavit of publication.

Patty Tallerday, from the Planning Department, said Phase II of the Westgate Shopping Center included a new building to be attached to the southern portion of the existing building, a new drive through, and a realignment of Cliff Street. She said the new addition would contain 23,900 square feet of retail space. She said no additional parking spaces would be required since existing parking meets the required standards. She said the developer has received approval from the North Carolina Department of Transportation for an entrance cut.

Ms. Tallerday said, in regards to Cliff Street, there has been no documentation received for the dedication of Cliff Street. She said the developer would address this matter.

At the request of Vice-Mayor Michalove, Ms. Tallerday read the following contingencies placed on the approval of Phase I of the Westgate Shopping Center Expansion:

(1) Proper dedication of Cliff Street;
(2) Provision of minimum 6' wide planted buffer on the west side of Cliff Street between Cliff Street and the parking area and that planted islands a minimum of 6' wide be installed on the east side of Cliff Street on approximately 120' centers. (3) Compliance with sign ordinance and primary sign be a maximum width of 30" for each post; (4) Inclusion of right-of-way trees on Patton Avenue; and (5) Compliance with Erosion Control Ordinance.

The City Attorney said the contingencies placed on the approval of Phase I of the Westgate Shopping Center Expansion Project should be carried over with the approval of Phase II with the exception of the proper dedication of Cliff Street, since this contingency is no longer applicable and has been satisfied from a legal standpoint.

Upon inquiry of Vice-Mayor Michalove, Charles Melvin, representing the Westgate management, said the final disposition of the building on the east side of the property that was condemned had not been determined but some decision would be made in the near future after the engineers complete their evaluation of the building. He said, however, this building would not be a part of Phase I or Phase II of the expansion project.

Councilman Bratton took her seat at 4:20 p.m.

A discussion was held relative to the closing of a portion of Cliff Street for the proposed realignment of the street.

Henry Stevens, of 46 Springwood Street, said he owns property at 500 Westwood Place and felt the new expansion project would be an asset to the City. He said he was also glad that Cliff Street would remain open since this street also serves his property on Westwood Place.

Vice-Mayor Michalove closed the public hearing at 4:31 p.m.

Councilman Martin moved for the approval of Phase II of the Westgate Shopping Center Expansion subject to the contingencies outlined in the approval of Phase I of the project being: (1) Provision of minimum 6' wide planted buffer on the west side of Cliff Street between Cliff Street and the parking area and that planted islands a minimum of 6' wide be installed on the east side of Cliff Street on approximately 120' centers. (2) Compliance with sign ordinance and primary sign be a maximum width of 30" for each post; (3) Inclusion of right-of-way trees on Patton Avenue; and (4) Compliance with Erosion Control Ordinance. Subject further to the conditions outlined for Phase II by the Planning and Zoning Commission being: 1) Letter from N.C. Department of Transportation approving entrance; 2) Signage package in compliance with Zoning Ordinance; and 3) Closing of portions of Cliff Street as described in a petition from the Westgate Corporation. This motion was seconded by Councilman Price and carried unanimously.

B. Public hearing relative to Overlook Village Shopping Center.

Vice-Mayor Michalove said the Asheville Planning and Zoning Commission on June 29, 1988, reviewed

and approved the site plan subject to the following conditions: 1) Letters of approval from NCDOT, FEMA, TVA, and Corp of Engineers prior to any grading on site; 2) Easements from Asheville Federal Savings & Loan and K-Mart; 3) Redesign of secondary entrance road to establish right turns only; 4) Outparcels to be reviewed separately by Asheville Planning and Zoning Commission; 5) Closing of Shawnee Trail by City Council; 6) Zoning of NCDOT right-of-way by City Council; 7) Resubmit landscape to AP&ZC for screening rear of buildings as much as possible from I-240; and 8) Sign contingencies as stated by staff (a. variance need on 1:1 ratio based on store frontage for attached signs per tenant, b. variances needed on 4' projecting signs per tenant, c. freestanding sign within 600' of right-of-way approved by City Council, d. outparcel signage to be reviewed by AP&ZC when needed, and e. Identification signs for outparcel A.- no freestanding sign, outparcel B. - freestanding sign 8' high, 75 square foot per face, and outparcel C. - freestanding sign 25' high, 100 square feet per face).

Vice-Mayor Michalove opened the public hearing at 4:34 p.m.

The City Clerk presented the notice to the public setting the time and date of the public hearing and the affidavit of publication.

Carol Albrice, from the Planning Department, said the project would be constructed on undeveloped land, which is zoned CH Commercial Highway, and would contain 135,002 square feet of open air retail space. She said the project is consistent with Asheville's 2010 plan. She said the proposed parking meets all parking requirements. She said there would be an entrance off U. S. 74 with a new traffic light and a turn lane at this location. She said the project meets all group development requirements and all utilities are in order.

Ms. Albrice reviewed each condition placed upon the project by the Planning and Zoning Commission stating that each contingency was either completed or in the process of being completed.

At the request of Council, Dale Kays, with Centennial American Properties, submitted prints showing the proposed grading plans. He also answered questions from members of Council relative to proposed construction, grading, and buffering.

After discussion, Vice-Mayor Michalove closed the public hearing at 5:02 p.m.

Councilman Frank moved for the approval of the site plan for Overlook Village Shopping Center subject to the conditions outlined by the Planning and Zoning Commission and further that all easements be approved by the City Attorney. This motion was seconded by Councilman Martin and carried unanimously.

C. Public hearing relative to Wal-Mart Store on Tunnel Road.

Vice-Mayor Michalove said the Asheville Planning and Zoning Commission on June 29, 1988, reviewed and approved the site plan subject to the following conditions: 1) Compliance with Erosion Control Ordinance; 2) Final approval from NCDOT on driveway location; 3) Encroachment agreement with NCDOT for stormwater drainage; 4) Signed easement agreements with Brenco, Inc., Arthur York and Sea-Nic Enterprises; 5) Variance granted for a 10' rear and 8' side setback - setback necessary for location of eastern corner of building and loading dock; and 6) Compliance with buffering ordinance by adding three trees in the parking lot.

Vice-Mayor Michalove opened the public hearing at 5:05 p.m.

The City Clerk presented the notice to the public setting the time and date of the public hearing and the affidavit of publication.

Patty Tallerday, from the Planning Department, said the proposed Wal-Mart Store would be constructed on the property formerly occupied by Howard Johnson's Motor Lodge on Tunnel Road. She said the property is zoned CH Commercial Highway on all sides however the property borders R-3 Residential District in the rear on Beaucatcher Mountain. She said the project would be one building, with one tenant, containing 76,200 square feet of retail space. She said the project meets all parking requirements. She said one entrance would align with Show Biz Pizza and one existing road between McDonald's and a service station. She said there would be signalization at this location. She said the project would require the relocation of an existing water line around the building.

Ms. Tallerday reviewed in detail the conditions outlined by the Planning and Zoning Commission stating which contingencies had been completed and which were in the process of being completed. Since there are a number of easements necessary for the project, she presented members of Council with a list of easements that would have to be obtained prior to approval of the project.

Gary Tysinger, President of Tysinger, Hampton & Partners, owners of the project, answered questions from members of Council relative to the project, including buffering and grading.

A lengthy discussion followed between members of Council, Mr. Tysinger, and Ms. Alexander, an adjoining property owner, who was concerned about buffering in the rear of the property which abuts her property. She requested that the developer provide a 40' buffer instead of the required 20' as outlined in the buffering ordinance.

Vice-Mayor Michalove closed the public hearing at 5:54 p.m.

Councilman Frank moved for the approval of the site plan for Wal-Mart Store on Tunnel Road subject to the conditions outlined by the Planning and Zoning Commission; further that the approval is subject to execution of all outstanding easements with adjoining property owners as shown on the easement schedule on the boundary survey map of the site plan approved on August 16, 1988 by City Council, said easements subject to the approval of the City Attorney; further that the developer plant a buffer of white pine trees along either side of the new 30' water line easement from the 270' finished elevation mark to the connection point with the existing water line as shown on the Wal-Mart Grading Plan dated August 16, 1988. Buffering will be in accordance with the specifications of the buffering ordinance and is subject to approval by the Planning Director. This motion was seconded by Councilman Boland and carried unanimously.

III. OLD BUSINESS:

A. **Ordinance No. 1705 - Second reading of an ordinance relative to rezoning property from One Rotary Drive over to Caribou Road from R-3 Residential District to OI Office Institutional District.**

Vice-Mayor Michalove said the Asheville Planning and Zoning Commission on June 29, 1988, reviewed and recommended approval of rezoning Ward 7, Sheet 15, Lots 81, 82, and 231, and Ward 7, Sheet 11, Lot 20, from R-3 Residential District to OI- Office Institutional District. (Property extends from One Rotary Drive over to Caribou Road.) A public hearing was held and this ordinance passed on first reading on August 9, 1988.

Vice-Mayor Michalove said this ordinance was previously read on first reading and would not be reread in its entirety.

On a roll call vote of 5-0, Ordinance No. 1705 passed on second reading.

B. **Ordinance No. 1704 - Second reading of an ordinance relative to a proposed wording amendment to Asheville Zoning Ordinance, Section 30-9-4, District Sign Regulations.**

Vice-Mayor Michalove said the Asheville Planning and Zoning Commission on June 29, 1988, reviewed and recommended approval of amending the Asheville Zoning Ordinance, Section 30-9-4. District Sign Regulations, Subparagraph (D)(1) by adding a new item (b) as follows: "(b) Off-premise advertising signs three hundred (300) square feet per display face or less shall be allowed only in the CH Commercial Highway District, CS Commercial Service District, LI Light Industrial District and HI Heavy Industrial District. A public hearing was held and this ordinance passed first reading on August 9, 1988.

Vice-Mayor Michalove said this ordinance was previously read on first reading and it would not be reread.

At the request of the Planning Department, Councilman Martin moved to amend Ordinance No. 1704 to include CG Commercial General in the proposed Section 30-9-4. District Sign Regulations, Subparagraph (D)(1)(b). This motion was seconded by Councilman Frank and carried unanimously.

On a roll call vote of 5-0, Ordinance No. 1704 passed on second reading, as amended.

IV. NEW BUSINESS:

V. CONSENT:

VI. OTHER BUSINESS:

COUNCILMAN BRATTON - COMPLAINT RECEIVED FROM RESIDENT AT 10 SASSAFRAS STREET

Councilman Bratton said she had received a call from Alice Mitchum at 10 Sassafras Street. She said Mrs. Mitchum is concerned that Sassafras Street was officially closed by the City of Asheville at the request of the Housing Authority. Mrs. Mitchum is the only house on Sassafras Street and there is no access to her house. She said Mrs. Mitchum originally objected to the closing of the street. She said the residents at the corner of Sassafras Street and Martin Luthur King Boulevard park a large vehicle at the corner which adds to Mrs. Mitchum's problem of access to her house. She said Mrs. Mitchum called the Police Department but they informed her there is nothing that can be done since this is not a public street.

After discussion, Vice-Mayor Michalove asked the City Attorney and the City Manager to look into this complaint.

RESOLUTION NO. 88-135 - RESOLUTION OF INTENT TO CLOSE A PORTION OF CLIFF STREET AND CALLING A PUBLIC HEARING ON THE QUESTION FOR SEPTEMBER 27, 1988

Upon motion of Councilman Frank, seconded by Councilman Boland, Resolution No. 88-135 was unanimously adopted.

Resolution Book No. 17 Page No. 226-227

CLAIMS - NEIL MORRIS (STREETS) - KENNETH BEAN (PARKING) -JESSIE PSYCHAS (STREETS) - MARMEL CORP. (STREETS) - LULA PIKE (SEWER) - AVL HEAD, NECK, EAR (SEWER) - JAN JAYNES (WATER)

The City Manager presented claims received from Neil Morris, Kenneth Bean, Jessie Psychas, Marmel Corporation, Lula Pike, Asheville Head, Neck, and Ear, and Jan Jaynes.

Vice-Mayor Michalove referred the claims to the Corporation Counsel for investigation and recommendation.

CLINTON GORHAM - REMARKS REGARDING 911 EMERGENCY SYSTEM

Clinton Gorham of 4 Waverly Court, Beverly Hills, spoke to members of Council expressing concern that the City of Asheville is contemplating having a separate dispatch system for the 911 Emergency Project. He said he felt it would be more logical to move the city's dispatchers and equipment to the County Health Department and have one centralized location. He said he was concerned that there would be delays of EMT's reaching the citizens of Asheville. He said in his opinion there are obvious delays already in the City of Asheville.

Mr. Gorham said he was also concerned that the Fire Department responds to all emergency calls. He said EMT units should be first priority on emergency calls. He said he felt

this was a waste of taxpayer's money as well as causing additional confusion at the location in question. He said this procedure also ties up fire equipment.

Councilman Martin said the Council has expressed concerns about the 911 Emergency System and is striving to get the very best system for the citizens of Asheville. He said the City is not trying to take the place of EMS service. He said the Council is working with the County for a consolidated system in the future.

Councilman Frank said the Intergovernmental Services Committee is working on reaching an agreement for one centralized display system. She said she would send Mr. Gorham an article showing what other cities are doing in regard to a 911 system.

Mr. Gorham said city residents need to be assured that their calls will be responded to immediately by the appropriate agency.

The City Manager asked Mr. Gorham to talk with Chief John Rukavina about his concerns.

ADJOURNMENT:

Upon motion, the meeting adjourned at 6:30 p.m.

MAYOR

CITY CLERK

Tuesday - August 23, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell Martin, and Walter Boland; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Mayor Bissette.

APPROVAL OF MINUTES - AUGUST 16, 1988 MEETING

Mayor Bissette announced the approval of the minutes of the August 16, 1988 meeting.

APPROVAL OF MINUTES - JULY 26, 1988 MEETING

Councilman Bratton moved for the approval of the minutes of the July 26, 1988 meeting. This motion was seconded by Councilman Price and carried unanimously.

I. PROCLAMATIONS:

II. PUBLIC HEARINGS:

A. Public hearing relative to site plan of proposed addition to Appalachian Stove and Fabricators, Inc.

Mayor Bissette said the Asheville Planning and Zoning Commission on August 3, 1988, reviewed and recommended approval subject to the following:

1) A building line setback variance of 10' being granted to front on Emma Road;
2) A parking lot paving variance being granted to apply to both existing and newly constructed parking lots;
3) An access easement being granted from the Eaven-Brice Partnership property to the west;
4) Approval of fire flows, water pressure and hydrant location by the Fire Department;
5) Approval of an erosion control plan by the City Engineering Department with special attention to Porshia property line and stabilization of slope;
6) Approval of a drainage control plan for the

site by the City Engineering Department;
7) The driveway being paved from Emma Road into the north parking lot;
8) That buffer plantings and parking lot trees comply with Sec. 30-3-14. of Zoning Ordinance; and
9) Compliance with N. C. State Building Code requirements relative to automatic fire protection for buildings of this size.

Mayor Bissette opened the public hearing at 4:14 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Tom Elmore, with the Land of Sky Regional Council, working under a Technical Reviewing Agreement with the Planning Department, presented the site plan of the proposed addition to Appalachian Stove and Fabricators, Inc. He said the site in question is located across from the Hilton. He said Appalachian Stove and Fabricators, Inc. proposes to construct a 15,500 square foot addition to their existing business.

Members of Council questioned Mr. Elmore extensively about the location of trees, buffering, and the grading procedure used for the proposed project.

Gary Eavenson, partner with the Appalachian Stove and Fabricators, Inc., explained, in detail, the process used for grading of the project. He said grading permits were obtained and after the grading was finished it was determined that the project would have to go through the group development process due to the size of the proposed addition. He said the project was planned prior to the property becoming a part of the City of Asheville. Upon questioning, he said, there may have been one boundary tree on the adjacent property owner, Faron Porshia's property, that was disturbed during grading; there may or may not be a pick up truck load of dirt on the Porshia property; the steep back can be stabilized with a retaining wall; the two-hour fire wall will not require a sprinkler system and there is no budget planned for the project to pave the parking areas. He said the front of the property is on the opposite side of the Porshia property which should reduce some of the noise from the business.

Faron Porshia, owner of Lot No. 48, said he and his father owns property adjacent to the proposed addition. He spoke in opposition to the project and asked that Council assure that the conditions outlined by the Planning and Zoning Commission be adhered to. He also spoke in opposition to the granting of the 10' variance stating that in his opinion this would have an adverse effect on his property.

After discussion, Mayor Bissette closed the public hearing at 5:06 p.m.

Vice-Mayor Michalove moved to table action on the site plan for the proposed addition to Appalachian Stove and Fabricators, Inc. for one (1) week, giving members of Council an opportunity to visit the site. This motion was seconded by Councilman Boland and carried unanimously.

Councilman Bratton left the meeting at 5:10 p.m. unexcused.

III. OLD BUSINESS:

A. Ordinance No. 1705 - Third reading of an ordinance relative to rezoning property from One Rotary Drive over to Caribou Road from R-3 Residential District to OI Office Institutional District.

Mayor Bissette said the Asheville Planning and Zoning Commission on June 29, 1988, reviewed and recommended approval of rezoning Ward 7, Sheet 15, Lots 81, 82, and 231, and Ward 7, Sheet 11, Lot 20, from R-3 Residential District to OI- Office Institutional District. (Property extends from One Rotary Drive over to Caribou Road)

Mayor Bissette said this ordinance was previously read on first and second reading and will not be reread in its entirety.

On a roll call vote of 7-0, Ordinance No. 1705 passed on third and final reading.

Ordinance Book No. 11 Page No. 303

B. Ordinance No. 1704 - Third reading of an ordinance relative to a proposed wording amendment to Asheville Zoning Ordinance, Section 30-9-4, District Sign Regulations.

Mayor Bissette said the Asheville Planning and Zoning Commission on June 29, 1988, reviewed and recommended approval of amending the Asheville

Zoning Ordinance, Section 30-9-4. District Sign Regulations, Subparagraph (D)(1) by adding a new item (b) as follows: "(b) Off-premise advertising signs three hundred (300) square feet per display face or less shall be allowed only in the CH Commercial Highway District, CS Commercial Service District, LI Light Industrial District and HI Heavy Industrial District. He said CG Commercial General District was added as an amendment during the second reading of the ordinance.

On a roll call vote of 7-0, Ordinance No. 1704 passed on third and final reading.

Ordinance Book No. 11 Page No. 302

IV. NEW BUSINESS:

A. Ordinance No. 1706 - Ordinance revising the Motor Vehicle Registration Tax - City Stickers.

Mayor Bissette said the Buncombe County Tax Department has agreed to bill and collect the motor vehicle registration tax for the City. The current ordinance needs to be revised in order to more accurately state the process; references to vehicle weight, prorated fees, and decals should be deleted.

Upon inquiry, the City Attorney said it would be difficult to collect dog tax through the Buncombe County Tax Department system.

Councilman Frank moved for the adoption of Ordinance No. 1706. This motion was seconded by Councilman Boland.

On a roll call vote of 7-0, Ordinance No. 1706 passed on first reading.

B. Ordinance No. 1707 - Ordinance amending Section 28-81.5 and Section 28-81.6 of Article IV, Speed Regulations, of Chapter 28 of the Code of Ordinances of the City of Asheville (portion of Riceville Road to be 35 m.p.h. as requested by N. C. Department of Transportation).

Mayor Bissette said this action will revise the current ordinance to declare a 35 mph speed limit on that portion of Riceville Road (SR 2002) within the corporate limits of the City of Asheville. The N. C. Department of Transportation has requested that the City Council approve this speed limit change.

Councilman Martin moved for the adoption of Ordinance No. 1707. This motion was seconded by Councilman Frank.

On a roll call vote of 7-0, Ordinance No. 1707 passed on first reading.

C. Resolution No. 88-136 - Resolution authorizing the City Manager to execute an agreement with the Housing Authority to continue Hillcrest Enrichment Program through June 30, 1989.

Mayor Bissette said this is a continuation of funding in the amount of $15,000 per year for the Hillcrest Enrichment Program.

Upon motion of Councilman Frank, seconded by Vice-Mayor Michalove, Resolution No. 88-136 was unanimously adopted.

Resolution Book No. 17 Page No. 228

V. CONSENT:

VI. OTHER BUSINESS:

CLAIMS - EILEEN NORTHCUTT (INSPECTIONS) - KATHY FLETCHER (SANITATION) - ROSE MARY JONES (PARKS) - HENRIETTA CUNNINGHAM (WATER) - JOSEPH CRAIN (STREETS) - SYBIL LABAR (WATER) - AGNES HUNTSINGER (SANITATION) - BRIAN JOHNSON (DOWNTOWN DEVELOPMENT)

The City Manager presented claims received from Eileen Northcutt, Kathy Fletcher, Rose Mary Jones, Henrietta Cunningham, Joseph Crain, Sybil Labar, Agnes Huntsinger, and Brian Johnson.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

LAWSUIT - CARL E. WILEY V. CITY OF ASHEVILLE (CIVIL SERVICE APPEAL)

The City Manager said the City was served with a lawsuit involving Carl E. Wiley v. City of Asheville regarding a Civil Service Appeal.

Mayor Bissette referred the lawsuit to the Corporation Counsel for investigation and recommendation.

DISCUSSION RELATIVE TO ASHEVILLE MALL EXPANSION

Mr. Rendell A. Davis, President of the Kenilworth Forest Community Association read the following statement:

"My name is Rendell Davis and I live at 285 White Pine Drive. Just one week ago, I became the President of the Kenilworth Forest Residents Association, and have been trying to catch up on the history of our community's struggle to protect our properties from the worst effects of the Asheville Mall development.

To this end, I have been reading a rather large collection of newspaper accounts, mainly covering the period from 1969 to 1972, just prior to the Mall's opening. And what I have found in the reading is that throughout that period of several City Councils, City Councilmen and Councilwomen, despite mistakes along the way, continually took strenuous action to force the developer to provide a buffer zone, sometimes described as a "planting strip," a "green belt of plantings," and at other times as a "curtain" to "shield" the residential property from such objectionable features as parking lot illumination, car headlights, fumes, heat, blowing paper, dust and noise. These efforts continued steadily despite the various changes back and forth in the legal width of the buffer zone. In fact, they made it quite clear that the objectives of the buffer zone must be met regardless of how many feet it took the developer to achieve them. This was and is an issue of critical importance, and it contains essentially the primary argument that I want to make here today.

Following the residents' suit in Buncombe County Superior Court, in which the court ordered a 50 foot buffer zone, the developer, in September 1969 appealed to the North Carolina Court of Appeals. This court overturned the requirement and reduced the zone to 15 feet. At this point the City Council was outraged! They decided by a vote of 5-1 to move to rezone Mr. Coleman's property back to RA-6 so that he would have to start all over again from the beginning and would be forced to provide the original intent of previous city councils for an adequate buffer zone. Councilman Dr. Robert Crouch commented, "I personally object to the way Coleman has handled the matter," referring to the 50 foot zone.

W. Neal Hanks, Executive Director of the Planning and Zoning Commission, and Phin Horton, City Manager, argued that "the council already has effective weapons to stop the mall by not granting an occupancy permit if the buffer is not adequate." Nevertheless, Council prepared notices for hearings to rezone the land.

One can only wonder just what happened during the following week; however just seven days later, Council reversed itself and cancelled the hearings. Nevertheless, all Council members repeatedly assured the Kenilworth residents that their interests would be protected, and that the new site plan would not be approved unless it contained adequate buffering between the shopping center and the residential property behind it. The article in the Citizen (11-21-69) added, "Before both the zoning

agency and City Council, Coleman's attorney, G. Ward Hendon, gave assurances that the developer would present a new site plan satisfactory to nearby homeowners and city officials.

Two weeks later, the Planning and Zoning Commission proposed a new definition of the "buffer zone" as 15 feet, but again specified that it should be a "green belt to shield residential districts from objectionable features such as parking lot illumination, headlights, fumes, heat, blowing paper, and dust." It is important to note that City Council, following this ordinance, understood that this gave them adequate power to insist that the developer of the Mall would effectively shield the mall property and activity from the adjoining residential areas.

All of this came to a head some six months later, as work began in mid-1970 and disputes arose over the bulldozing of trees in a "triangular area" that had been designated as part of the buffer zone and was not be disturbed. Unfortunately the minutes of the earlier meeting did not include the developer's promise not to disturb the area, nor was this noted in the revised city plan.

In fact, the tape of the meeting later confirmed that promise, and a note to that effect was attached to the minutes. But even before that discovery, City Council was adamant! Vice-Mayor Anderson said "Coleman has been warned that Council will not stand for violations of any agreements made with the city's governing body." Councilman Luke Atkinson said, "Coleman is either being careless or doing something he knows he shouldn't do." Councilwoman Barbara Keleher spoke most clearly to the point when she said, "City Council has a moral obligation to see that Coleman sticks by his promises, and that he should not be allowed to continue construction unless he abides by his plans." And Atkinson added, "Things are not turning out like I understood. I rode all over that site with Coleman last year, and he is not doing what he told me he would do. He'd better clean up his skirts, or somebody ought to take some action."

Thereafter, from July through December 1970, almost on a weekly basis, City Council struggled to see that trees were planted, fences built, a dirt berm (8 feet by 2 feet high) constructed to stop runaway cars, and steep slopes graded down to 1:1 (or 45 degrees), all to protect the residents property. Over and over Council reminded the developer that no certificate of occupancy would be issued until all deviations from the site plan were corrected.

At one point the developer refused to build a fence. Once he announced that he understood there was no need for a buffer zone. At another time he excused the steep slopes by arguing that rocks made it necessary. But again and again, Council insisted that before occupancy there must be compliance.

A year later, in early 1971, as time came to pen the Sears store, City Council continued to take a firm stand, insisting that no certificate of occupancy would be issued if the deviations were not corrected. The manager of Sears, Mr. Hackney, stated that he understood the conditions, but asked for a temporary permit, to be contingent on meeting the requirements before the opening in February. Councilman Henry Colton was probably more prophetic that the others when he stated, " I doubt that Council will withhold the permit to open if it does not have the courage to withhold the temporary certificate at this time." Nevertheless, by February 4 the trees were planted, the fence was erected, some slopes were graded, and the permanent permit was granted.

Clearly, this history shows that only as City Council has been very firm in forcing the Mall developer to conform to its requirements have the citizens been protected. There were times when Council was not firm enough, and times when they did not follow through on the strength of their convictions. Nevertheless, by legislation, Council did insist on the protection of the residential area, and this intent is not repealed by any subsequent permit to expand the mall.

The newest ordinance, in section 30-3-14-A, includes some very important words, "The purpose is to improve the appearance, quality, and quantity of landscaped areas that are visible from the roadways and to protect an abutting property from less desirable characteristics of the property for which buffering is required due to dissimilar district use... Such characteristics may include but are not limited to visually incompatible structures and land uses, overhead lighting, wind and dust and increased land uses... In addition the requirements will encourage the preservation of existing trees and the planting and maintenance of others." I would suggest to you that an elevated parking garage is a visually incompatible structure, and that the importance of existing trees and vegetation in the ordinance would imply that any such destruction would be done only with permission.

As we speak here today, the buffer has been violated. Trees have been wiped out by bulldozers, the banks have been wiped free of vegetation as dirt has been bulldozed down to the very line of the residents' property. Essentially, there is no longer a shield, no longer a curtain, no longer a fence in many places, or green plantings. There is nothing to protect us from the mall lights or fumes or dust or blowing trash or noise or heat. Our only hope is that the city authorities will take prompt steps to stop the destruction and demand a new and effective buffer zone immediately.

We the residents appeal to the City Council to fulfill their responsibilities to protect the residents and their property in the City of Asheville in 1988 as former councils did some 16 to 19 years ago."

Kevin Clark, 294 White Pine Drive, commented on the following dates and events affecting Kenilworth Forest:

* 12 August 1965 - Asheville City Council adopted Ordinance No. 525, which amended Ordinance #322, known as An Ordinance Providing for the Zoning of the City of Asheville. The intent of Ordinance No. 525 was in insure that the Asheville Mall Developer would not destroy the surrounding Kenilworth neighborhood. It was to accomplish this by requiring the Mall Developer to maintain a fifty- (50) foot buffer zone between the commercial and residential property.

* August 1968 - ## ---- Decker, Middleton, (et al) v. Richard L. Coleman and wife, Betty B. Coleman. Buncombe County Superior Court upholds temporary restraining order and permanent injunction restricting the Mall Developer from altering the "inviolate" fifty-foot buffer zone provided for in Ordinance No. 525.

* Fall, 1969 -The North Carolina Court of Appeals reversed the trial court's decision on the grounds that the Ordinance violated the defendant's rights to equal protection of the laws.

* July 1970 - Mall Developer bulldozes buffer zone separating commercial and residential property. (Asheville Citizen-Times)

* March 1985 - Asheville City Council approves Site Plan for Expansion of the Asheville Mall. While contended by many that during the course of the City Council Meeting which approved the site plan, explicit prohibitions against altering the existing buffer zone were placed on the Asheville Mall Developer. However, these prohibitions were not recorded in the official minutes. No provision to alter the existing buffer zone was included in t he approved site plan.

* July, 1988 - Mall Developer violates city ordinance by bulldozing existing buffer zone without authority to do so from site plan approved by city council.

* July, 1988 - North Carolina Supreme Court overturns precedent set in earlier zoning cases - the court held that conditional use zoning gives local governments flexibility in land use planning and is gaining acceptance across the nation.

Harold Payne, former Chairman of the Kenilworth Forest Homeowners Association, spoke to Council relative to impact the Asheville Mall is having on Bracketown Road. He asked why the "T" intersection from Bracketown Road to White Pine Drive has not been installed as required by Council in approving the project. He said he would also be opposed to a stop sign on White Pine

Drive and that a stop sign should remain and be enforced on Bracketown Road. He also commented on the request of the North Carolina Department of Transportation for a left leading green into White Pine Drive and signalization in the area.

After discussion, Mayor Bissette said the City staff would check with the North Carolina Department of Transportation on the status of these requests.

Harold Payne also questioned whether or not the landscaping and lighting plan has been submitted to the Planning Staff for approval as outlined in the motion for approval of the expansion project.

After discussion, Mayor Bissette requested that the City staff check on the lighting and landscaping plans of the project immediately.

Verl Emrick, with the Planning Department, presented and commented on the following letters relative to the Mall Expansion:

May 25, 1988

Mr. Verl R. Emrick, Jr.
Director of Planning
City of Asheville
PO Box 7148
Asheville, NC 28807

Re: Proposed Expansion
The Asheville Mall

Dear Mr. Emrick:

The attached print shows an area of proposed work along the southwest perimeter of our site, northwest of the theater, which conflicts with the existing planted buffer along the R-2 zoned property. This discrepancy was discovered when actual field layout work was performed. It should be noted that the affected parking is a contract obligation (as shown on the attached Sheet P-1) between the Mall and the various anchor stores.

The Owner is requesting permission to install the affected curb line as shown which will require removal of the existing buffer, extending the fill bank on the Mall property, and installing a new planting buffer in accordance with the current ordinance.

As an option to the above, the parking count might be maintained by the curb line behind the first row of trees in the buffer and installing infill hemlock planting where the existing buffer is disturbed. This would provide "compact" spaces in the affected area.

With your concurrence, the Owner requests that he be allowed to execute this change within the scope of the current approval.

Sincerely,

Danie A. Johnson, AIA
Architect

DAJ/ss
cc: R.L. Coleman, Jr.
88/150May25.LTA

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May 27, 1988

Mr. Danie A. Johnson, AIA, Architect
39 Patton Avenue
Asheville, North Carolina 28801

Re: Asheville Mall - Your letter of May 25, 1988

Dear Danie:

As you requested I have reviewed our files and drawings relative to the changes being proposed and offer the following opinions:

1. Our drawings do show some additional parking in the area you described; however, there seems to be some inconsistency in at least two sets we have on file (those being approved by the Asheville Planning and Zoning Commission and City Council).

2. None of the drawings indicate that there is (was) any anticipated changes in the existing buffering/landscaping except for replanting as needed.

3. It is my opinion that based on the drawings submitted for approval that Council has an understanding that no change in the existing buffering is to take place.

Therefore, I would recommend that if the changes you have described are anticipated or need to be implemented, your clients should request that City Council schedule a review of the changes.

Should you have any questions, please advise.

Sincerely,

Verl R. Emrick, Jr.
Planning Director

VREJr/nr

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July 2, 1988

Mrs. Julie Cogburn
Acting Director of Planning
City of Asheville
Asheville, North Carolina

Re: The Asheville Mall

Dear Mrs. Cogburn:

Enclosed please find three copies of "Partial Site Plan", Sheet R3A2R, dated 7-2-88, describing the requested modification of the Group Development Approval for the referenced project to be heard before the Asheville Planning and Zoning Commission on August 3, 1988.

As previously discussed with Mr. Emrick, this request is made in order to enable the Owner to fulfill his contractual obligations to J. C. Company relating to truck circulation space as described on the enclosed Sheet P1, and is necessitated by inaccurate topographical information available at the time of the original group development approval.

Please feel free to contact me should you have any questions or require additional information.

Sincerely,

Danie A. Johnson, AID
Architect

cc: R. L. Coleman, Jr.
87/660JUL2.LTA

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Upon inquiry of Vice-Mayor Michalove, the City Attorney outlined several options the City would have if the developer violates the contingencies associated with the group development approval.

The City Manager said the city staff would discuss and review the comments made during the Council meeting in relationship to the approval of the Mall Expansion Project and would take the necessary legal actions to see that the contingencies associated with the group development approval is adhered to.

Councilman Boland said the city staff should consider lighting, landscaping, grading, buffering, the slope of the grades, noise, and the control of litter. He asked how the developer was going to correct violations already made.

Mayor Bissette said the Council wants the developer to comply with the letter of whatever the site plan approval is, and in a timely fashion and the Council wants the city staff to enforce the development plans and ordinances to the letter.

Upon inquiry of Harold Payne, the City Attorney said nothing has been presented to him to show him that the developer is in violation of the group development approval.

Harold Payne said in his opinion the City should review the procedure for group development approvals. He said the overall impact of the group development projects need to be looked at closely.

Roger Watson, resident in the area, said since the grading has been done the new lighting has been installed and shines in their living rooms.

After discussion, Mayor Bissette said the City staff would have a report on the Asheville Mall Expansion project at next week's meeting.

REQUEST TO APPROVE RESOLUTION SUPPORTING THE INCORPORATION OF THE TOWN OF FLETCHER

Pat Richie, 49 Wildwood, Chairperson for the Fletcher Community Improvement Committe, in Henderson County, spoke to members of Council requesting approval of a resolution supporting the incorporation of the Town of Fletcher since state statutes require that one of the requirements of becoming incorporated is a resolution from a neighboring city if it is within 5 miles and has a population of over 50,000. She presented several documents, including a boundary description, correspondence, and copies of state statutes relative to her request and made the following presentation:

The Honorable Louis Bissette, Mayor
Members of the City Council

This presentation is in regards to the proposed incorporation of the Town of Fletcher developed by the Fletcher Community Improvement Committee.

This committee is seeing overwhelming support for incorporating our community as evidenced by our first town meeting with 300 people in attendance and the circulation of simple petitions to business firms and residents.

In incorporating our community, we would continue our small town atmosphere and maintain our heritage. Although growth in inevitable, we feel with incorporation our chances of controlling and guiding this growth is good.

Because of the present pressures of past industrial and residential growth there are needs of the community which have to be addressed. Local police protection, road maintenance, garbage service (to name a few) and a local governing body to address these needs is evident at the present.

The Fletcher Community is blessed at this time with having one of the best equipped and manned fire and rescue departments in the state. The men and the governing board of the fire department see the need of incorporating the area and have passed a resolution supporting this endeavor.

In letters circulated between Mr. William T. Drake, Chairman of the Henderson County Commissioners, the Honorable Louis Bissette, Mayor, through the City Manager Douglas Bean, it appears that the City of Asheville has no plans to annex any portion of Henderson County. Since the City of Asheville has no plans to annex into Henderson County then there should be no problem to adopting a resolution to this effect. There are needs now that have to be met and this can only be accomplished by incorporating and having a local governing body.

One of the requirements that a community must meet in the incorporation process is to have a resolution supporting the incorporation endeavor from the neighboring city. The committee feels that working together before and after the fact would be beneficial to all parties concerned. We most respectfully request this resolution from the City of Asheville be adopted.

Thank you.

Fletcher Community Improvement Committee

Several Council members commented on the reasoning behind the General Assembly establishing such a requirement and said they could not support adoption of a resolution at this time.

Mayor Bissette said although the City of Asheville does not have plans, at the present time, to annex the Fletcher community, he would like to consider their request for awhile and would also like to receive city staff input on the request.

Pat Richie thanked members of Council for their time and said she would be happy to furnish any information they needed and would come back to Council until they make a decision on the resolution.

ADJOURNMENT:

Mayor Bissette adjourned the meeting at 7:00 p.m.

MAYOR

CITY CLERK

Tuesday - August 30, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell Martin, and Walter Boland; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Vice-Mayor Kenneth M. Michalove

INVOCATION

The invocation was given by Councilman Frank.

APPROVAL OF MINUTES - AUGUST 23, 1988 MEETING

Approval of the minutes of the August 23, 1988 meeting were postponed until the next meeting.

I. PROCLAMATIONS:

A. Proclamation - "French Broad River Week" - September 10-18, 1988.

Mayor Bissette said the French Broad River Week is sponsored by the Land of Sky Regional Council.

Mayor Bissette read the proclamation and presented a copy to LaRue Bolick who outlined the activities taking place during French Broad River Week.

B. Recognition of Beautification Contest Winners

Mayor Bissette said on July 26, 1988, communities in the Asheville area were judged in a beautification contest. This contest was held to foster litter control and beautification throughout Asheville. The Montford Community was the first place winner of $125.00, and the Liberty-Chestnut area was the second place winner of $75.00.

Mayor Bissette presented a check in the amount of $125.00 to Evelyn Wyatt who spearheaded the Montford Community clean up. He presented a check in the amount of $75.00 to Jeannie Warner from the Liberty-Chestnut Street area.

C. Proclamation - Saturday, September 10, 1988 - "Biltmore Village Festival Day"

Mayor Bissette said the proclamation was requested by the American Association of University Women (AAUW) and the Biltmore Village Merchants Association.

Mayor Bissette read the proclamation and presented a copy to Roberta Sherer.

II. PUBLIC HEARINGS:

III. OLD BUSINESS:

A. Action relative to site plan of proposed addition to Appalachian Stove and Fabricators, Inc.

Mayor Bissette said the Asheville Planning and Zoning Commission on August 3, 1988, reviewed and recommended approval subject to the following:
1) A building line setback variance of 10' being granted to front on Emma Road;
2) A parking lot paving variance being granted to apply to both existing and newly constructed parking lots;
3) An access easement being granted from the Eaven-Brice Partnership property to the west;
4) Approval of fire flows, water pressure and hydrant location by the Fire Department;
5) Approval of an erosion control plan by the City Engineering Department with special attention to Porshia property line and stabilization of slope;
6) Approval of a drainage control plan for the site by the City Engineering Department;
7) The driveway being paved from Emma Road into the north parking lot;
8) That buffer plantings and parking lot trees comply with Sec. 30-3-14. of Zoning Ordinance; and
9) Compliance with N. C. State Building Code requirements relative to automatic fire protection for buildings of this size.

Mayor Bissette said action on the site plan was continued from the August 23, 1988 meeting until members of Council had an opportunity to visit the site.

Patty Tallerday, Acting Planning Director, again reviewed the contingencies outlined by the Planning and Zoning Commission. She said members of Council visited the site today and one concern expressed was the degree of slope on the bank. She said the Erosion Control Ordinance does not require a certain degree of slope; however, measures must be taken to stabilize the slope.

Ms. Tallerday said the owners of Appalachian Stove and Fabricators, Inc. met with the property owners and agreed to put railroad ties at the bottom of the property line; to

install a 4' woven fence to eliminate debris; buffering of two (2) rows of white pines at the base of the bank; and a retaining wall at the top of the hill.

Councilman Price requested that Appalachian Stove submit a landscaping plan to the Planning Department for review and approval.

Gary Eavenson, partner with the Appalachian Stove and Fabricators, Inc., said in his opinion, according to the requirements in the Zoning Ordinance, a setback variance would not be needed since the ordinance requires a 35' setback from the front of the building or property; 10' side setback from an adjoining property owner if the properties are zoned the same; and 20' side setback if the property adjoins residential property. He said they are maintaining that they are at least 24' from the adjoining property owner and 375' from the front of the road. He said if the variance is not granted and Council determines that a setback variance is required 20 percent (20%) of the proposed addition would have to be eliminated which would not benefit the adjoining property owner or his company.

Mr. Eavenson said his company will make every effort to stabilize the bank and to plant or replant as much buffer as is needed.

Upon inquiry of Mayor Bissette, Mr. Eavenson said his company has agreed to put in railroad ties at the base of the property line; to install a 4' woven wire fence along the length of the property line; and to provide buffering of spruce trees according to city specifications.

Faron Porshia, adjoining property owner, thanked members of Council for visiting the site. He said his only comment would be that if the addition is allowed it will take a long time for the trees to grow in order to buffer his house from the construction.

Councilman Price said she was still not comfortable with granting a variance of 10' to the front on Emma Road.

Councilman Frank said she would like to see evergreen trees planted at the base of the retaining wall.

After discussion, Councilman Price moved to approve the site plan for the addition to the Appalachian Stove and Fabricators, Inc. with the contingencies outlined by the Planning and Zoning Commission with the exception of (1) being that a building line setback variance of 10' being granted to front on Emma Road; that railroad ties be installed at the bottom of the property line sufficient to address the Erosion Control Plan; that a 4' woven wire fence be installed; and that a landscaping plan be submitted,

reviewed, and approved by the Planning Staff. This motion was seconded by Councilman Bratton.

Mr. Eavenson appealed to Council to grant the variance if Council determined that it was necessary. He said this action would not be helping anyone and would not help erosion control. He said this would only require him to make the building smaller.

The City Attorney read the definition of the front building line as being the front of the lot rather than the front of the building.

Mayor Bissette said he would vote against the motion because reducing the building size would not help the adjoining property owner. He said he felt expanded buffering would be best.

After discussion, Mayor Bissette called for a vote on Councilman Price's motion, which motion failed on a voice vote of 6-1, with Councilman Price voting "aye".

Councilman Frank moved to approve the site plan of the proposed addition to Appalachian Stove and Fabricators, Inc. subject to the contingencies outlined by the Planning and Zoning Commission; that an additional row of trees be installed at the building line; that a 3' retaining wall of railroad ties be installed at the bottom of the property line; and that a 4' woven wire fence be installed along the entire length of the property line. This motion was seconded by Councilman Martin and carried unanimously.

B. **Ordinance No. 1706 - Second reading of Ordinance revising the Motor Vehicle Registration Tax - City Stickers.**

Mayor Bissette said the Buncombe County Tax Department has agreed to bill and collect the motor vehicle registration tax for the City. The current ordinance needs to be revised in order to more accurately state the process; references to vehicle weight, prorated fees, and decals should be deleted. He said this ordinance passed on first reading on August 23, 1988 and would not be reread in its entirety.

On a roll call vote of 6-0, Ordinance No. 1706 passed on second reading.

C. **Ordinance No. 1707 - Second reading of an ordinance amending Section 28-81.5 and Section 28-81.6 of Article IV, Speed Regulations, of Chapter 28 of the Code of Ordinances of the City of Asheville (portion of Riceville Road to be 35 m.p.h. as requested by N.C. Department of Transportation).**

Mayor Bissette said this action will revise the current ordinance to declare a 35 mph speed limit on that portion of Riceville Road (SR 2002) within the corporate limits of the City of Asheville. The N. C. Department of Transportation has requested that the City Council approve this speed limit change. He said this ordinance was previously read on first reading and will not be reread in its entirety.

On a roll call vote of 6-0, Ordinance No. 1707 passed on second reading.

D. Report relative to Asheville Mall Expansion Project.

The City Manager said the City staff investigated complaints received relative to construction of the Asheville Mall Expansion Project. He said all the minutes leading up to the approval of the project was reviewed as well as all contingencies placed upon the approval. He said the staff would be presenting a video of the project in question to show reference points; reporting on existing conditions as they relate to contingencies placed upon the approval; and reviewing a letter sent to the developer of the project outlining concerns about the project.

Al Kopf, with the Parks and Recreation Department, formerly with the Planning Department, presented the video of the construction site which was taken today outlining the status of various concerns expressed by the residents and the conditions placed upon the approval of the project.

Mr. Kopf presented and discussed the following staff report:

STAFF REPORT - ASHEVILLE MALL EXPANSION

CONDITION 1. ESTABLISH AND MAINTAIN BUFFERING TO EXTEND SOUTHERLY ALONG THE CONTOUR LINE, SHEET R3A2, ON SHEET DATED 6-10-85, AND THAT BE EXTENDED TO THE NORTHEAST CORNER OF LOT 65 UNTIL IT INTERSECTS WITH THE NEW BUFFERING.

EXISTING CONDITION:

Some of the proposed R3A2 buffer has been installed between Lots 43 and 51. An eight foot high chain link fence has been installed with tennis screening and there are two rows of staggered evergreen trees. Additional shrub plantings are not apparent on the site. The R3A3 buffer does not extend to the northeast corner of Lot 65.

REQUIREMENTS:

Additional shrub plantings along R3A3 buffer from Lot 43 to Lot 51.
Continuation of R3A3 buffer to northeast corner of Lot 65.

CONDITION 2. APPROVE THE GROSS PARKING (FULL DECK AS SHOWN) AREA PLAN, BUT IN THE EVENT THE DEED RESTRICTIONS WILL NOT PERMIT THIS PLAN THAT PARKING PLAN TWO, WITH THE TRIANGLE CUT OFF OF THE DECK, BE APPROVED.

EXISTING CONDITION:

Parking lot is being constructed in a "rectangular" shape presently (this includes the triangular portion of the deck which may or may not be permitted according to deed restrictions). The perimeter drive within the deck has not changed according to Mr. Coleman.

REQUIREMENTS:

Verify parking deck layout during construction process.

CONDITION 3. THAT THE PLANS BE UPDATED TO SHOW THE CONTOURS AS IT RELATES TO MR. REX MOSELEY'S PROPERTY.

EXISTING CONDITION:

Presently, the parking lot area has been graded. It appears that the elevation of the parking lot approximates the elevation approved by Marvin Vierra on June 24, 1988 (site inspection 8-24-88 Emrick/Kopf). The graded slope west of the parking area appears closer to the Moseley property line than presented in R3A3 or RA/A10. At one point (assuming it is the intersection of S 05 - 17W and N 26 - 56W) the top of the slope is presently about 8 feet away whereas the drawings indicate a distance of approximately 15 feet. From this same point, the toe of the slope is presently about 22 feet away whereas the plans indicate the toe of the slope should be about 30 feet away from this point. The R3A3 buffer to be placed on the top of the slope has not been installed/planted along this western border.

REQUIREMENTS:

Eventually install R3A3 buffer west of this parking area. Compliance with site plan approvals for grading and existing natural buffer.

CONDITION 4. THAT THE DETAILED R3A3, TYPICALLY NEW BUFFERING, BE TIED DOWN WITH THE DIMENSION OF 2-1/2 FEET FROM THE RIGHT-OF-WAY OF THE PROPERTY LINE TO THE FIRST PLANTING BE ADDED. (CLARIFIED FROM LIP OF BANK TO FENCE LINE) (MARKED ON PLANS).

EXISTING CONDITION:

Detail R3A3 of proposed buffer was tied down with a revised drawing presented to and approved by City Council on December 22, 1987. This buffer detail has been applied to a couple of the installed buffer areas.

REQUIREMENTS:

Installation of all buffer area in accordance to this detail.

CONDITION 5. THAT IT BE IN COMPLIANCE WITH PRESENT EROSION CONTROL.

(SEE TOM TARRANT'S REPORT)

CONDITION 6. THAT EXISTING CONTOURS ON PORTIONS OF THE JOHNSON PROPERTY ZONED RESIDENTIAL ARE NOT TO BE DISTURBED.

EXISTING CONDITION:

Field measurements verified the 50 foot residential zone was left intact north of the parking lot and it appeared that no grading occurred within the "triangle" northwest of the lot.

REQUIREMENTS:

Maintain undisturbed areas within R-3 Residential District zone.
Eventual installment of R3A3 buffer north of this parking area.

CONDITION 7. THE LOCATION AS WELL AS THE ELEVATIONS OF THE BUFFERING AS SHOWN ON THIS PLAN IS A FUNDAMENTAL CONDITION OF APPROVAL OF THIS GROUP DEVELOPMENT PROPOSAL.

EXISTING CONDITION:

The buffer areas installed south of the theaters and along White Pine Street correspond to their locations on site plans R3A2 and R3A3. The other buffer areas have not been installed yet.

REQUIREMENTS:

Install buffer areas at proper locations and elevations as shown on the site plans.

CONDITION 8. REQUIRE A SCHEMATIC DRAWING OF THE EXISTING DRAINAGE SYSTEM AND THE PROPOSED DRAINAGE SYSTEM TO BE SUBMITTED TO STAFF PRIOR TO ITS GOING TO CITY COUNCIL.

EXISTING CONDITION:

A schematic drainage plan was submitted to staff and City Council requested a storm drainage report regarding Mrs. Willard's property from the city staff.

REQUIREMENTS:

Report by city staff already presented to City Council.

CONDITION 9. REQUIRE A SCHEMATIC LIGHTING PLAN TO BE SUBMITTED PRIOR TO ITS GOING TO CITY COUNCIL.

EXISTING CONDITION:

Planning staff received a lighting plan on March 24, 1988, which indicated light pole location and light distribution.

REQUIREMENT:

Verification of lighting plan installment.

* * * * *

CONDITION: SUBMITTAL OF LANDSCAPE PLAN TO STAFF FOR APPROVAL.

EXISTING CONDITION:

A landscape plan has been submitted to city staff for the parking lot areas and meets the requirements for the parking lot plantings described on Sheet R3A1- "General Landscape Notes."

REQUIREMENT:

Verification of landscape plan installment.

CONDITION: MALL TO CONSTRUCT A "T" INTERSECTION FROM BRACKETOWN ROAD AND WHITE PINE DRIVE ACCORDING TO CITY STANDARDS AND APPROVED BY CITY STAFF, AND THAT WHITE PINE DRIVE BE WIDENED FROM BRACKETOWN ROAD TO THE INTERNATIONAL HOUSE OF PANCAKES, INC.

EXISTING CONDITION:

Bracketown Road has been widened to an approximate width of 38 feet whereas Marvin Vierra approved of a 30' width on June 24, 1988. The "T" intersection has not been implemented nor has White Pine Drive been widened east of Bracketown Road.

REQUIREMENTS:

Bracketown Road constructed to approved 30' width.
Construction of "T" intersection.
Widening of White Pine Drive east of Bracketown Road.

CONDITION: CITY REQUEST NCDOT FOR A LEADING LEFT-TURN SIGNAL FROM TUNNEL ROAD ONTO WHITE PINE DRIVE AND STUDY SYNCHRONIZATION OF THE TRAFFIC LIGHTING IN THE AREA.

EXISTING CONDITION:

No changes in system presently.

REQUIREMENTS:

(See Memo from Bob McDonald, Traffic Engineer)

* * * * *

SITE VISIT OBSERVATIONS (VERL EMRICK - AL KOPF - 8-24-88)

1. The drive southwest of J. C. Penny's loading dock is shown on the site plans as 30' in width. Presently there is a gravel area approximately 35 feet wide and a stake which might indicate the drive width as 38'. This drive width appears to be a conflict with the approved site plan which may have resulted in the removal of an existing evergreen tree buffer and additional grading.

2. An existing buffer has been removed and an area graded which was not indicated on the approved site plans. The approved site plans do not propose the removal or addition of buffering or indicate grading within the area which begins about 125 feet northeast of the theaters and continues northeast for approximately 275 feet. Danie Johnson, Project Architect, told Al Kopf on a site visit the day before the City Council hearing (12-7-88) that this existing buffer was to remain.

   The banks have been graded similar in slope to the steep banks which exist southeast of this area.

   A landscape plan has been requested for this area.

3. Some of the evergreen trees have died within the buffer which is located southwest of the theater. Staff has requested a landscape program/plan to replace these trees.

4. A row of parking within the parking area south of White Pine Drive has not been constructed yet. Eventual compliance with site plan/parking ratio requirements.

Mr. Kopf also reviewed the following reports from Bob McDonald, Traffic Engineer, and Tom Tarrant, from the Erosion Control Office as it relates to the above conditions:

REPORT OF FINDINGS RELATIVE TO ASHEVILLE MALL EXPANSION

Submitted by: Bob McDonald, Traffic Engineer

From an on-site inspection conducted on August 25, 1988, for work completed to date on the Asheville Mall expansion, the following was found regarding traffic improvements on Brackettown Road, White Pine Drive, and signalization improvements at Tunnel Road.

Brackettown Road has been widened to an approximate width of thirty-seven and one-half feet (37.5') to thirty-eight feet (38'). On June 20, 1988, Al Kopf and I met with Mr. Coleman and Mr. Danie Johnson to discuss, among other things, the widening and lowering of the grade on this street. It was agreed that lowering the grade would be in the best interest of traffic safety, as a vertical curve would be eliminated which caused sight distance problems. Also, it was agreed that widening Brackettown Road to thirty feet (30') would be desirable. Approval for these modifications was made at staff level by the Department of Planning, as they were considered minor revisions to the original approved plan. At this time, there was no discussion about bringing Brackettown Road to a T-intersection with White Pine Drive, as it was assumed that this would be implemented by the developer pursuant to the recommendation of City Council on December 22, 1987. As of August 25, 1988, no efforts have been made to realign Brackettown Road to a T-intersection with White Pine Drive.

In addition to improvements to Brackettown Road, the City Council recommended that White Pine Drive be widened to accommodate an additional lane, from Brackettown Road to the International House of Pancakes. If the developer was required to do this work a construction plan for the widening should have been submitted to the Department of Public Works for review and compliance with our street construction standards and specifications. To date, the Department of Public Works has not received any plans for the widening of White Pine Drive, nor have we received plans for the T-connection of Brackettown Road to White Pine Drive which must also be approved by this office.

Finally, with regard to traffic signalization on Tunnel Road at White Pine Drive, the N. C. Department of Transportation has approved a protected left-turn phase from Tunnel Road onto White Pine. In a telephone conversation this morning with Mr. K. J. Putnam, Division Traffic Engineer with N.C.D.O.T., Mr. Putnam indicated that modifications to the signal equipment, to include the protected left-turn phase, would be completed within the next thirty (30) days. To initiate this work, the Department of Transportation has already marked the location of detector loops on Tunnel Road, for the new left-turn phase.

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MEMORANDUM TO: Bill Slawter, City Attorney

FROM: Tom Tarrant
City Engineering Coordinator

DATE: August 26, 1988

SUBJECT: Asheville Mall Site - Erosion Control History
Provisional Permit No. 412, Grading Permit No. 637

On December 18, 1986, the grading plan indicating the erosion control measures was approved and the Provisional Permit was issued. By January 9, 1987, the erosion control measures had been installed, inspected and the grading permit issued.

From that date until July 19, 1988 only minor problems occurred and were addressed upon receipt of inspection reports. On July 19, 1988, it became necessary to issue a Notice of Violation concerning site maintenance and they took corrective action within the time frame granted. On July 25, 1988, another Notice of Violation was issued for grading an area not covered by the approved plan and therefore the permit. (The Buffer Area Between the Theaters and The New Parking Deck) This Notice of Violation required a revised plan and additional erosion control measures to protect the property owners along White Pine Drive. They provided both within the time frame allotted. This does not constitute a site plan revision approval; but corrects a grading error. On August 29, 1988, another Notice of Violation was issued concerning site maintenance and should be received soon with corrections to take place within five (5) days of receipt.

For several months, we have tried to get a non-permitted waste site under permit, that has been used by the Mall's contractor. Certified mail to the property owner in Atlanta was returned, so last week the contractor for the Mall was directed cease waste activities and did so.

On August 25, 1988, the Mall was sent another Notice of Violation about the waste site with respect to Section 9 of the Ordinance. Their contractor and consultant, were also contacted by phone concerning the non-permitted site and at 4:00 p.m. of August 25, 1988, the consultant delivered a grading plan with the measures to be installed.

WTT,IV/bgd

Patty Tallerday, Acting Director of Planning, reviewed the following letter to R. L. Coleman, developer of the Asheville Mall based on the above reports:

August 30, 1988

Mr. R. L. Coleman Jr.
R. L. Coleman and Company
394 Merrimon Avenue
Asheville, North Carolina 28804

Dear Mr. Coleman:

Recent inspections of the construction of the Asheville Mall expansion have raised the following concerns:

1. A condition of the site plan approval by the City Council on December 22, 1987, was that "the Mall construct a 'T' intersection from Brackettown Road onto White Pine Drive according to City standards and approved by City staff." From the current configuration of the improvements being made, it appears that no provision is being made for that "T" intersection.

2. The site plan approval also provides that "White Pine Drive be widened from Brackettown Road to the International House of Pancakes Inc. (IHOP)." If this widening is scheduled for future construction, prior to issuance of the Certificate of Occupancy, this point would become moot.

3. Brackettown Road has been widened beyond the width provided for in the site plan. Planning staff did previously approve a widening from 24 feet to 30 feet, but the current width measures approximately 38 feet. The main concern, of course, relates to the width at the intersection of White Pine Drive, and the number of lanes of traffic at that point. The site plan which was approved provides for only one lane of traffic in each direction on Brackettown Road. The City Traffic Engineer has further determined that White Pine Drive cannot safely accommodate two lanes of travel exiting from Brackettown Road.

4. There has been grading which infringes in two separate areas of the buffer zone as shown on the approved site plan. One of these areas is located behind the new Penney's building, and the other is in the area of the Moseley property.

5. The area of grading behind the new Penney's building resulted in the destruction of numerous existing trees. The site plan which was approved did not provide for the removal of any trees in that area. Replacement of these trees will be necessary in order to restore compliance with the site plan.

6. The site plan approval includes as a contingency the approval by staff of your lighting plans. Our records indicate that a plan was submitted; however, we do not have any record of approval of that plan.

7. The site plan approval also requires staff approval of the landscape plan. Our records indicate that the landscape plan was not submitted for staff approval. It appears that the primary problem with both the landscaping plan now being reviewed and the lighting plan is that they would have been based upon the existence of trees which have now been removed from the area behind Penneys. A new landscaping plan should be submitted addressing the replacement of the trees and the concerns raised in Julia Cogburn's letter of August 12, 1988.

8. A large quantity of silt has been allowed entry into the drainage system at the Mall site due to the lack of protection provided at inlets. As you are aware, there have been problems in the past with the storm drainage, and this can only make the problem worse.

We consider each of the foregoing items to be an essential component of the site plan as approved by City Council. Since a Certificate of Occupancy for the project cannot be issued until the site plan has been completed in accordance with the site plan as approved, it would seem to be in everyone's best interest that these points be addressed right away. We look forward to hearing from you.

Very truly yours,

Patricia Tallerday
Acting Director of Planning

PT:msb
CC: Douglas O. Bean, City Manager
William F. Slawter, City Attorney

Upon inquiry of Councilman Frank, Ms. Tallerday said when the Planning Staff reviews the lighting plan, the staff would review the feasibility of asking the developer to put shades on the lighting in the parking areas where it shines on residences.

Upon inquiry of Councilman Boland, the City Attorney said in connection with the questions raised concerning construction noise at the Asheville Mall, Section 18-12 of the Code of Ordinances restricts construction activities before 7:00 a.m. and after 6:00 p.m. Monday through Saturday and all day on Sunday, but the restriction is only applicable "in a residential

district." This section could, and perhaps should, be amended to read that the restriction is applicable within close proximity of a residential district. The distance would have to be defined in the ordinance.

Ms. Tallerday and Al Kopf, at the request of Councilman Boland, said they would review the landscaping plan in detail as far as buffering and drainage is concerned.

Councilman Price requested that the landscaping and lighting plan and staff's recommendations be shown to members of Council.

Ms. Tallerday said the staff would be continuously monitoring the progress of the construction to assure compliance with all contingencies and ordinances.

Rendell A. Davis, 285 White Pine Drive, President of the Kenilworth Forest Community Association, said in his opinion the city staff reviewed the project from the developer's standpoint rather than the residents. He said the old buffer ordinance which, in his opinion, has not been repealed, contains provisions for noise control during construction projects. He said in his opinion the developer disturbed the natural vegetation in the area which is in violation unless he can hide the development from the residences. He said with the history of problems at the Asheville Mall, if the city staff deals with problems after the fact many times it is too late to do anything about them. He requested a copy of the staff reports presented to members of Council.

Steve Blair, 251 White Pine Drive, said the buffering in its present state does not protect the integrity of the neighborhood. He said the Arbor Association can provide a formula for replacing the large trees that were removed. He said he would also like for the city staff to specifically define to Mr. Coleman, the developer of the Mall, as to exactly what he can and can not do at the site.

Harold Payne of 299 White Pine Drive said in his opinion the city staff has circumvented the original site plan by allowing variances to the plan. Specifically Mr. Payne referred to the widening of Bracketown Road to 38' when it was suppose to be 30'and that the original grading plan said there was to be no grading in the area behind the theatre. He said it seems that these changes would have required approved variances.

Rendell Davis, said the residents would like to go on record to state that they oppose Bracketown Road being a major entrance/exit to the Asheville Mall.

Harold Payne said in past discussions the lighting in front of the theatre was to be directional lighting.

Helen Payne, 299 White Pine Drive, asked what could be done if Mr. Coleman is found in violation of the approved site plan or any other ordinances.

The City Attorney, responding to Mrs. Payne, said it would depend upon the nature of the violation. He said one ultimate action would be the denial of the certificate of occupancy or a court injunction or restraining order by the courts.

Helen Payne spoke to members of Council relative to the lighting plan not being approved prior to the installation of lights and grading prior to a landscaping plan being approved.

A discussion was held relative to the authority of the Planning Staff to allow the modification of the width of Bracketown Road from 24' to 30.

Mayor Bissette said the City Attorney would like into this authority of the Planning staff.

Councilman Frank and Councilman Martin left the meeting at 6:20 p.m. to go to Charlotte to review their 911 emergency system.

Helen Payne said she felt that if the developer could he would make Bracketown Road the main entrance to the Mall. She said the residents do not want the road to appear to be a commercial area.

Mrs. Dewey Ramsey of 258 White Pine Drive said the residents in the area need some relief from the traffic on White Pine Drive.

Mayor Bissette assured the residents that the city staff would continue to monitor the progress of the expansion project and would enforce all provisions of the approval of the project and all ordinances related to the Mall.

Councilman Bratton told the residents that the city staff would share information relative to the project with the residents.

The City Manager said the City will be establishing a committee to attempt to work out problems and disagreements surrounding the construction of the addition to Asheville Mall. He said the City currently has such a committee working with the neighborhood and Grove Park Inn which has worked very well. He said the committee would be comprised of representatives from the R. L. Coleman Company, Kenilworth Association, the construction company, and the city staff. He said the committee could be beneficial in circumventing the problems that are now being discussed.

IV. NEW BUSINESS:

A. **Sale of Disposal Parcel 7 in the East Riverside Redevelopment Project.**

Mayor Bissette said the Housing Authority has tentatively accepted the following bid for a certain Disposal Parcel in the East Riverside Redevelopment Project:

Parcel	Reuse	Price	Bid	Redeveloper
7	Residential	$1,000	$1,000	Jack & William Stewart

The redevelopers have a contract to purchase the property adjacent to Disposal Parcel 7 on South Grove Street. The adjacent property, 103 South Grove Street, has a residence on it which the redevelopers intend to rent. The proposed improvements on Disposal Parcel 7 consist of landscaping for assemblage with 103 S. Grove Street.

Councilman Boland moved to approve the sale of Disposal Parcel 7 as recommended by the Housing Authority. This motion was seconded by Councilman Price and carried unanimously.

V. CONSENT:

A. Bids for estimated annual requirement for 5/8" and 1" water meters.

SUMMARY: Award of bids for the estimated annual requirement of 5,100 each 5/8 inch and 100 each 1 inch water meters is recommended to the low bidder, Neptune Water Meter Company, Tallassee, Alabama in the net amount of $86,400.00 for "Trident 10" water meters.

B. Resolution No. 88-137 - Resolution authorizing the City Manager to enter into agreements necessary to conduct the French Broad Riverfest and authorizing the City Manager to temporarily close a portion of Riverside Drive for the French Broad Riverfest to be held on Saturday, September 10, 1988, and Sunday, September 11, 1988.

SUMMARY: The City of Asheville and the French Broad River Foundation, Inc., will be sponsoring the French Broad Riverfest to be held on Saturday, September 10, 1988, and Sunday, September 11, 1988. It is necessary to establish agreements between these sponsors and various landowners of property whereon the Riverfest will be held. It is also necessary to temporarily close a portion of Riverside Drive from its intersection with West Haywood Street south to its intersection with Clingman Avenue.

Resolution Book No. 17 Page No. 229

C. Motion to cancel Regular City Council Meeting scheduled for September 6, 1988.

D. Scheduling public hearing relative to the adoption of an ordinance establishing the Thomas Wolfe Mem. as historic property for September 20, 1988.

SUMMARY: Plans for a Thomas Wolfe visitors center will be developed later this year and designation will give the City a review authority highly desirable considering the recent history of the project.

E. Scheduling public hearing relative to the adoption of an ordinance establishing the City Hall Bldg. as historic property for September 20, 1988.

SUMMARY: Plans for a major rehabilitation of the City Building are now being drafted. The Historic Resources Commission Director is already been given ample opportunity to express preservation concerns and sees no major problems with the direction of the project; however, the more formalized review designation would be more desirable and appropriate - the City setting an example with this most significant building.

F. Scheduling public hearing relative to an ordinance zoning Oteen property annexed into the City Limits August 31, 1988 for September 20, 1988.

SUMMARY: The Asheville Planning and Zoning Commission on August 17, 1988 reviewed and recommended zoning for the Oteen Property which was annexed into the City Limits on August 31, 1988.

G. Resolution No. 88-138 - Resolution appointing member to Planning and Zoning Commission.

SUMMARY: This resolution will appoint Pat Hutchison as a member of the Planning and Zoning Commission to replace Ed Dyson

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Upon motion of Councilman Bratton, seconded by Councilman Boland, the consent agenda was unanimously approved.

OTHER BUSINESS:

RIGHT OF WAY AGREEMENTS - N. C. DEPARTMENT OF TRANSPORTATION - BROADWAY PROJECT

At the request of the City Manager, Councilman Bratton moved to authorize the Mayor to sign a right-of-way agreement and two easements for the improvement of Broadway from W. T. Weaver Blvd. to Catawba Street. This motion was seconded by Councilman Price and carried unanimously.

Councilman Price said she would like to see the plans for the Broadway project.

SETTLEMENT OF CLAIM - CARL WILEY

Councilman Price moved to authorize the City Manager to sign a claim settlement relative to Carl Wiley. This motion was seconded by Councilman Boland and carried unanimously.

CLAIMS - CHAD WEBB (SEWER) - HORACE BUCKNER (WATER) - KENT LOMINAC (PARKS) - PHYLLIS PENDLETON (TRAFFIC ENGINEERING)

The City Manager presented claims received from Chad Webb, Horace Buckner, Kent Lominac, and Phyllis Pendleton.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

COUNCILMAN BRATTON - COMPLAINT RELATIVE TO SASSAFRAS STREET

Councilman Bratton commended the City Attorney for his work on the complaint from a resident on Sassafras Street in a timely manner.

PAT RITCHIE - FLETCHER COMMUNITY IMPROVEMENT COMMITTEE- REQUEST FOR RESOLUTION SUPPORTING THE INCORPORATION OF THE TOWN OF FLETCHER

Pat Ritchie, 49 Wildwood, Chairperson for the Fletcher Community Improvement Committee, in Henderson County, again spoke to members of Council requesting a resolution supporting the incorporation of the Town of Fletcher.

Upon inquiry of Ms. Ritchie, Mayor Bissette said the city staff would have a report on their request in two (2) weeks and she could expect a vote from Council on the proposed resolution.

Ms. Ritchie made the following presentation:

To: Mayor and Asheville City Council 8/30/88

Last week I came before this Council to ask for a resolution to allow Fletcher to incorporate. Today I am back with many residents and to speak for the many others who are unable to stand here and speak to you.

The following remarks are directed to Vice Mayor Michalove and Councilman Martin. Your comments last week upset many Henderson County residents, in fact, your remarks insulted a lot of people. You left people feeling that you promote big government as best. You also left the impression that we are not capable of governing ourselves.

In closing let me say that people in Henderson County think that this council has a very simple decision. YES, you will give Fletcher a resolution to incorporate, or NO, you will not give us a resolution because you intend to annex into Henderson County. Let me say again that a NO will be construed as plans to annex into Henderson County because there is no other reason to deny Fletcher to incorporate.

I once again respectfully request a resolution to allow Fletcher to incorporate.

Ms. Ritchie invited members of Council to a Town Meeting in Fletcher on Thursday, September 1, 1988 at 7:30 p.m. She said if any member would like to come early the residents would be happy to take them on a tour of Fletcher.

Mayor Bissette commented that the City of Asheville has no plans for Asheville to annex into Henderson County. He said it was his hope that the residents of Fletcher have reasons for an incorporation other than the fact that they do not want to be a part of Asheville's corporate boundaries.

Robert Davie, Past President of the Wildwood Homeowners Association, spoke against Asheville annexing into Henderson County. He said there is no reason for anyone to annex the Fletcher community since the residents have all the services they need. He said cities should not abuse the annexation process. He requested that the City Council draw the line for annexation at the existing border.

Tom Akers of 48 Wildwood, said he just recently moved into the Fletcher community and moved there for the quality of the area. He said he would oppose any annexation of the Fletcher community.

Mayor Bissette commented that many good things are happening in Asheville and it was a good place to live. He said the City of Asheville uses the same method of annexation as other cities in North Carolina. He said a reasonable annexation process is necessary. He said Asheville has not annexed as much as other cities in North Carolina. However, in order to remain one of the larger cities of North Carolina the City has to remain a certain size and many times that is done through annexation.

Jeff Allison of Jones Road in Fletcher, said he lives next to the County line. He said if Asheville does not intend to annex the Fletcher community why did a Buncombe County Planner say that Asheville was going to annex the Fletcher area. He said a Henderson County Deputy had reported that he seen maps in the Police Department showing where Asheville had plans to annex.

Mayor Bissette said he had heard this before and would like to talk to the Buncombe County Planner and Henderson County Deputy that made those statements.

Pat Ritchie presented Mayor Bissette with a letter from Frank M. Zuch, 11 Golden Oaks Lane, Fletcher, North Carolina, who could not attend the meeting. (The letter is on file in the Office of the City Clerk)

ADJOURNMENT:

Mayor Bissette adjourned the meeting at 7:00 p.m.

MAYOR

CITY CLERK

Tuesday - September 13, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank; Norma T. Price; Wilhelmina Bratton (arriving at 4:30 p.m.); Russell Martin; and Walter Boland; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Vice-Mayor Michalove.

I. PROCLAMATIONS:

II. OLD BUSINESS:

A. Ordinance No. 1706 - Third reading of Ordinance revising the Motor Vehicle Registration Tax - City Stickers.

At the request of the City Attorney, Mayor Bissette said the third reading of this ordinance would be postponed for one week.

B. Ordinance No. 1707 - Third reading of an ordinance amending Section 28-81.5 and Section 28-81.6 of Article IV, Speed Regulations, of Chapter 28 of the Code of Ordinances of the City of Asheville (portion of Riceville Road to be 35 m.p.h. as requested by N.C. Department of Transportation).

Mayor Bissette said this action will revise the current ordinance to declare a 35 mph speed limit on that portion of Riceville Road (SR 2002) within the corporate limits of the City of Asheville. The N. C. Department of Transportation has requested that the City Council approve this speed limit change.

Mayor Bissette said this ordinance was previously read on first and second readings and would not be read in its entirety.

On a roll call vote of 6-0, Ordinance No. 1707 passed on third and final reading.

III. NEW BUSINESS:

IV. CONSENT:

A. Resolution No. 88-139 - Resolution authorizing the City Manager of the City of Asheville to make application for and enter into an agreement with the Land of Sky Regional Council for Senior Citizen Grant funds for physical improvements to the Center.

SUMMARY: This action will authorize the City Manager to apply for and enter into an agreement with the Land of Sky Regional Council for senior citizen grant funds. These funds would be used to renovate the existing toilet facilities at the Senior Opportunity Center making them accessible for handicapped participants.

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B. Resolution No. 88-140 - Resolution authorizing the City Manager of the City of Asheville to make application for and enter into an agreement with the Land of Sky Regional Council for Senior Citizen Grant funds for outreach services.

SUMMARY: This action will authorize the City Manager to apply for and enter into an agreement with the Land of Sky Regional Council for senior citizen grant funds. These funds would be used to provide outreach services to Montford Recreation Center, Shiloh Recreation Center, on a daily basis as well as providing programs for seniors at Battery Park Apartments, Vanderbilt Apartments, Bartlett Arms, Aston Towers, and similar housing areas for senior citizens.

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C. Resolution No. 88-141 - Resolution authorizing the Mayor to execute an Agreement for Entry requested by the North Carolina Department of Transportation for the proposed NC 280 Connector at the Airport.

SUMMARY: The North Carolina Department of Transportation has developed plans for the proposed NC 280, State Project 8.1950202, at the Asheville Airport. The North Carolina Department of Transportation has requested an

easement across property owned by the City of Asheville. Prior to the aforementioned project being completed, the North Carolina Department of Transportation will prepare the easement agreements required to officially record the required easements.

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Ralph Bishop requested that the Mayor furnish him with the names of the individuals on the Land of Sky Regional Council.

Upon motion of Councilman Frank, seconded by Vice-Mayor Michalove, the consent agenda was unanimously approved.

V. OTHER BUSINESS:

A. PATTY TALLERDAY - REPORT OF GROUP DEVELOPMENT ACTIONS BY THE PLANNING AND ZONING COMMISSION

Patty Tallerday, Acting Director of Planning, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. She said in accordance with the new procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. She said the following action was taken by the Planning and Zoning Commission at their meeting on September 7, 1988.

(1) RIVER RIDGE BUSINESS CENTER - FAIRVIEW ROAD

Ms. Tallerday said the Asheville Planning and Zoning Commission on September 3, 1988, reviewed and recommended approval of the group development plans of River Ridge Business Center to be located on Fairview Road subject to the following conditions:

a) A recordable document being approved by the City Attorney which provides access to parking off the site;

b) A letter being provided from the City stating availability of water services;

c) Easements being approved by the City Attorney for all public utility extensions outside public rights-of-way;

d) An erosion control plan being approved by the City Engineering Department; and

e) Signs to comply with sign package previously approved for River Ridge Shopping Center.

Ms. Tallerday said no opposition was received prior to or at the meeting, and that this group development had been unanimously approved by the Planning and Zoning Commission.

The City Council took no action on this site plan, making the action of the Planning and Zoning Commission final.

(2) ASHEVILLE RESIDENTIAL TREATMENT CENTER - VICTORIA ROAD

Ms. Tallerday said the Asheville Planning and Zoning Commission on September 7, 1988, reviewed and recommended approval of the group development plans of Asheville Residential Treatment Center to be located on Victoria Road subject to the following conditions:

a) Erosion Control Plan approval by City Engineering Department;

b) Access and utility easement approval by the City Attorney; and

c) Demolition and reconstruction plan review and approval by the Historic Resources Commission staff.

At the request of Vice-Mayor Michalove, Councilman Martin moved to excuse Vice-Mayor Michalove from discussion and vote on this issue due to a conflict of interest in that St. Joseph's Hospital has an interest in this project. This motion was seconded by Councilman Price and carried unanimously.

Ms. Tallerday said no opposition was received prior to or at the meeting, and that this group development had been unanimously approved by the Planning and Zoning Commission.

The City Council took no action on this site plan, making the action of the Planning and Zoning Commission final.

3) LOWE'S OF WEST ASHEVILLE - PATTON AVENUE

Ms. Tallerday said the Asheville Planning and Zoning Commission on September 7, 1988, reviewed and recommended approval of the group development plans of Lowe's of West Asheville to be located on Patton Avenue subject to the following conditions:

a) Letters of approval from MSD and Water and Sewer Services;

b) Letter from Asheville Fire Department approving adequacy of proposed lines for fire fighting purposes;

c) Recordable grading easement from adjoining property owners; and

d) No grading or tree removal adjacent to R-2 areas until final approval.

Vice-Mayor Michalove said due to the interest from the Malvern Hills Homeowners Association in this project, he would prefer to have a public hearing on this group development. He moved to schedule a public hearing on the matter for Tuesday, September 27, 1988. This motion was seconded by Councilman Price and carried unanimously.

B. Approval of bids for fire pumper.

Mayor Bissette said a recommendation was received for award of Bid Request No. 337-89 for one Fire Pumper/Squad Unit to the low bidder, Slagle's Fire Equipment, Cayce, South Carolina, in the amount of $122,500.

Councilman Frank moved to accept the recommendation and award the bid for the fire pumper to Slagle's Fire Equipment in the amount of $122,500. This motion was seconded by Vice-Mayor Michalove and carried unanimously.

LETTER FROM CROWFIELDS CONDOMINIUMS - SIGNS

Mr. H. B. Van Hartesveldt, President, Executive Committee of Crowfields Condominiums Cluster Association read the following letter:

September 6, 1988

The Honorable Louis Bissette
Mayor of Asheville
P. O. Box 7148
Asheville, North Carolina 28802

Dear Mayor Bissette:

The proliferation of signs along south Hendersonville Road is creating a "honky-tonk" appearance offensive to residents and visitors alike. It can only depress residential property value as it degrades the image of Asheville to users of this heavily travelled highway. The Crowfields Condominium Association opposes those regulations which have permitted this commercial graffiti to occur and will support in anyway

possible an ordinance to correct the condition. The Association is particularly concerned with recently installed enormous billboards (600 - 700 square feet, 45 feet high).

This Association (Crowfields) cannot speak officially for our neighbors, but residents of the Racquet Club, Deer Wood, Deerfield, Turtle Creek and Oak Forest have expressed the same concerns as Crowfields' residents. We ask that you take these concerns into account when you assess this condition. It surely affects the kind of City Asheville will become, and to those of us who love and are proud of our City, this makes it very important.

Yours truly,

H. B. Van Hartesveldt
President, Executive Committee

cc: Mr. Jerry Grant
Mr. Glenn Kelly

Mr. Hartesveldt also presented an article from the New York Times relative to "Challenging the Billboard Industry".

Councilman Bratton arrived at the meeting at 4:30 p.m.

Mayor Bissette said the Asheville Sign Commission would be presenting new recommendations for the Sign Ordinance to Council within the next six (6) weeks. He said it was his hope that Crowfields Condominiums Cluster Association would give their input into these recommendations when they are presented.

CLAIMS - MILDRED HAYNES (STREETS) - PATRICIA RHODES (STREETS) - ALICE WHEAT (WATER) - W. L. JONES (STREETS) - FAYELLEN PITTS (SEWER) - TAMRA JOHNSON (WATER) - BOYCE WHITAKER (WATER) - BILL SISK (SEWER)

The City Manager said claims were received from Mildred Haynes, Patricia Rhodes, Alice Wheat, W. L. Jones, Fayellen Pitts, Tamra Johnson, Boyce Whitaker and Bill Sisk.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

5:00 o'clock p.m.

VI. PUBLIC HEARINGS:

A. **Public hearing relative to the annexation of property generally known as the Beaverdam Valley Area.**

B. **Public hearing relative to the annexation of property generally known as the Hansel Avenue Area.**

C. **Public hearing relative to the annexation of property generally known as the Plemmons Property.**

Mayor Bissette said pursuant to Chapter 160A of the North Carolina General Statutes the City of Asheville has examined certain areas to determine if they qualify for annexation. Certain statutory procedures are required for annexation. A public hearing is required under these procedures.

Mayor Bissette said all three public hearings would be held simultaneously.

Mayor Bissette opened the public hearings at 5:06 p.m.

The City Clerk presented the notices to the public setting the time and date for the public hearings and the affidavits of publication.

Ms. Patty Tallerday, Acting Director of Planning, outlined for the plan for services for each area proposed to be annexed.

George Hyler, 49 Webb Cove Road, said he lives outside the area proposed to be annexed, but was speaking on behalf of the Beaverdam Community Council and CODA North, a group of residents opposed to annexation. He said the residents are opposed to the proposed annexation and disputes the facts and factors presented by the Planning Department. He said they would dispute the fact that 67% of the total acreage consists of lots and tracts five acres or less in size; the fact that adequate fire protection can be provided; and the general manner in which the annexation has been proposed. He said he would mainly speak to the third dispute since the first two issues can be brought up in court.

Mr. Hyler said the proposed area to be annexed is only "taking the heart out of the valley." He said the sole purpose of "gerrymandering" is to reach the 60% requirement. He said the area proposes to go to the end of streets and leaving part of the property out. He said this would have a significant impact on the area. He said those left out will not have adequate fire protection. He said Beaverdam has a volunteer fire department and those individuals would not voluntarily fight fires when they are paying taxes for fire protection.

Mr. Hyler said the Beaverdam residents created the Beaverdam Council and they have worked with the City and County on zoning in the area. He said this is a fairly progressive community and if annexed there will no longer be a Beaverdam Council.

He said the residents do not question the legality of the annexation but do question whether or not the City can do anything for the citizens in that area. He said the City should have proposed to annex ridge line to ridge line. He said annexation would destroy something worth saving.

Mr. Dick Plemmons, owner of property proposed to be annexed known as the "Plemmons area", said he would not benefit from the annexation. He said he owns the road in the area and he put in his own water line.

Mayor Bissette noted that the water line in the "Plemmons area" would be upgraded from a 2" line to a 6" line. He said Mr. Plemmons' fire insurance rates would probably be reduced.

There being no further comments, Mayor Bissette closed the public hearing at 5:35 p.m. He said the first reading of the annexation ordinances is scheduled for the Council meeting of September 27, 1988.

APPROVAL OF MINUTES - AUGUST 23, 1988 AND AUGUST 30, 1988

Upon motion of Vice-Mayor Michalove, seconded by Councilman Bratton, the minutes of the August 23, 1988 and August 30, 1988 meeting were unanimously approved as submitted.

ADJOURNMENT:

Mayor Bissette adjourned the meeting at 5:40 p.m.

MAYOR

CITY CLERK

Tuesday - September 20, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, and Russell Martin; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Walter Boland

INVOCATION

The invocation was given by Councilman Mary Lloyd Frank.

APPROVAL OF MINUTES - SEPTEMBER 13, 1988 MEETING

Mayor Bissette announced the approval of the minutes of the September 13, 1988 meeting as submitted.

I. PROCLAMATIONS:

A. Proclamation - September 22, 1988 - "American Business Women's Day."

Mayor Bissette proclaimed September 22, 1988 as "American Business Women's Day". Councilman Martin will be delivering the proclamation to the annual dinner of the local chapter of the American Business Women's Association.

B. Proclamation - September 17-23, 1988 - "Constitution Week"

Mayor Bissette read the proclamation and presented a copy to Frances McDowell with the Edward Buncombe Chapter of the Daughters of the American Revolution.

C. Proclamation - October 10-14, 1988 - "Court Observance Week"

Mayor Bissette read the proclamation and presented a copy to Carol Howell.

II. PUBLIC HEARINGS:

A. Public hearing relative to an ordinance establishing the Thomas Wolfe Memorial as historic property. (Joint hearing with Historic Resources Commission)

Ordinance No. 1708 - An Ordinance designating property known as the "Thomas Wolfe Memorial" on Spruce Street and the adjoining lot on N. Market Street together as a local historic property

Mayor Bissette said plans for a Thomas Wolfe visitors center will be developed later this year and designation will give the City a review authority highly desirable considering the recent history of the project. He said a joint public hearing is required by the Historic Resources Commission of Asheville and Buncombe County and the Asheville City Council.

Mayor Bissette opened the public hearing at 4:24 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Doug Swaim, Director of the Historic Resources Commission, introduced the members of the Historic Resources Commission in attendance and announced that a quorum of the Commission is present. He said the Historic Resources Commission recently surveyed the stock of local historic buildings they would like designated as historic properties. He said one of the top priorities of the Commission is the Thomas Wolfe Memorial due to the proposed development of the Visitors Center. He said the Historic Resources Commission unanimously endorses the designation of the Thomas Wolfe Memorial as historic property.

Upon inquiry of Councilman Martin, Mr. Swaim said the existing building on the adjoining lot is not included as part of the designation of historic property.

Bill McCray, with the Division of Archives and History, requested that Section 4 (2) (d) of the ordinance be changed to reflect that there are no brick sidewalks but it is a brick driveway- suggested that Council strike the word sidewalk and insert the word driveway. He also suggested that the plaque stating the local designation be incorporated with the national designation plaque and that these plaques be in the Visitors Center rather than on the grounds of the property.

Mayor Bissette closed the public hearing at 4:29 p.m.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Price moved for the adoption of Ordinance No. 1708 with the word sidewalk being changed to driveway in Section 4 (2) (d) of the ordinance. This motion was seconded by Vice-Mayor Michalove and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1708 passed on first reading.

Mayor Bissette said members of Council would probably agree that the Visitors Center would be the most appropriate location for the plaques.

Vice-Mayor Michalove moved to suspend the rules and proceed to the second reading of Ordinance No. 1708. This motion was seconded by Councilman Martin and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1708 passed on second reading.

After discussion, Vice-Mayor Michalove moved to suspend the rules and proceed to the third reading of Ordinance No. 1708. This motion was seconded by Councilman Frank and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1708 passed on third and final reading.

Ordinance Book No. 11 Page No. 307-311

B. Public hearing relative to an ordinance establishing the City Hall Building as historic property. (Joint hearing with Historic Resources Commission)

Ordinance No. 1709 - An Ordinance designating a building and property known as "Asheville City Building" located at City-County Plaza as a local historic property

Mayor Bissette said plans for a major rehabilitation of the City Building are now being drafted. The Historic Resources Commission Director is already been given ample opportunity to express preservation concerns and sees no major problems with the direction of the project; however, the more formalized review designation would be more desirable and appropriate - the City setting an example with this most significant building. He said a joint public hearing is required by the

Historic Resources Commission of Asheville and Buncombe County and the Asheville City Council.

Mayor Bissette opened the public hearing at 4:35 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Doug Swaim, Director of the Historic Resources Commission, announced that a quorum of the Historic Resources Commission is present. He said the Asheville City Building was designed especially for the mountain city of Asheville by architect Douglas Ellington, Asheville's Art Deco master and stands as a magnificent symbol of the development boom of the 1920s, when fabulous civic projects were undertaken in the "Program of Progress. He said this designation would give the Historic Resources Commission an opportunity to express preservation concerns in planned renovations and presently sees no major problems with the direction of the project.

Ralph Bishop said he was opposed to this Council or future Councils giving up their rights to regulate city owned property.

Councilman Price said she would like to see the elevators remain as they are currently but at some future date someone might want to change them to electric elevators. She asked how this decision might be affected by the proposed ordinance.

Doug Swaim said the City would go through the same application process that any individual goes through for the Historic Resources Commission to consider a change. He said a solution to any request can be negotiated but the end result is that no building permit is issued unless it is approved by the Historic Resources Commission.

Mayor Bissette closed the public hearing at 4:48 p.m.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Frank moved for the adoption of Ordinance No. 1709. This motion was seconded by Councilman Martin.

On a roll call vote of 6-0, Ordinance No. 1709 passed on first reading.

Vice-Mayor Michalove moved to suspend the rules and proceed to the second reading of Ordinance No. 1709. This motion was seconded by Councilman Frank and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1709 passed on second reading.

C. Public hearing relative to an ordinance zoning Oteen property annexed into the City Limits August 31, 1988.

Ordinance No. 1710- An Ordinance amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville," as amended, zoning of Oteen Property annexed into City Limit August 31, 1988.

Mayor Bissette said the Asheville Planning and Zoning Commission on August 17, 1988 reviewed and recommended zoning for the Oteen Property which was annexed into the City Limits on August 31, 1988.

Mayor Bissette opened the public hearing at 4:50 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, from the Planning Department, said state statute requires that property annexed into the City be zoned. He said this particular area in question was previously zoned under the extra territorial zoning jurisdiction. He said the proposed zoning is principally as it was originally zoned. He presented certifications of notification to property owners in the area of the proposed zoning. He said all requirements for notification have been satisfied. He outlined the recommended zoning stating that the zoning accommodates all entities in place at present. He also said the recommended zoning would provide that no property will be a non-conforming use and is as recommended by the 2010 plan.

At the request of Councilman Price, Council requested that the Planning Staff review a possible change to the Heavy Industrial classification. It was suggested that perhaps the Heavy Industrial zone could be changed to Light Industrial to allow for safety in the area since many motels are located in the vicinity.

Edward Pearce asked for a clarification on the tax bill computations recently received by residents in the area.

The City Manager explained the computations stating that the residents are paying 10/12ths of a year on their current billing since the City and County taxes are based on a fiscal year of July 1st to June 30th. He said all cities and towns in North Carolina collect their taxes in the same manner.

Mayor Bissette closed the public hearing at 5:08 p.m.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Frank moved for the adoption of Ordinance No. 1710. This motion was seconded by Vice-Mayor Michalove.

On a roll call vote of 6-0, Ordinance No. 1710 passed on first reading.

Vice-Mayor Michalove requested that the Planning Staff look at the feasibility of changing the Heavy Industrial classification to a Light Industrial classification.

III. OLD BUSINESS:

A. **Third reading of Ordinance revising the Motor Vehicle Registration Tax - City Stickers.**

Mayor Bissette said the third reading of this ordinance would be postponed until another meeting.

IV. NEW BUSINESS:

A. **Report on the proposed incorporation of Fletcher.**

The City Manager outlined the following report:

SUBJECT: Report on Corporation of Fletcher Community

The City Council has been asked by representatives of the Fletcher Community to adopt a resolution that supports the incorporation of their community. The following report is intend to provide you with information that will help you in your deliberations.

LOCATION

The Asheville City limit line effective August 31, 1988 is approximately two miles from the Fletcher Community which is identified for incorporation. Also there is an area that is under study for annexation by the staff that would, if approved, leave the Asheville City limit line approximately 1.2 miles from the proposed incorporation.

On June 2, 1987 the Asheville City Council adopted a map entitled "Area Under Consideration for Annexation" which includes the remaining area in Buncombe County to the Henderson County line. The North Carolina General Statutes state that the map shall remain in effect for two years after adoption. In June of 1989 the City may want to reconsider a map which shows other areas under consideration as part of our continuing annexation study. It does not appear that all of the areas that we have identified to be annexed will be annexed in the time period designated and I would foresee only minor changes to the existing map at that time. At the present time there have been no studies to incorporate past this boundary.

The proposed Fletcher incorporation boundary would also touch upon the existing City limits at the Airport. In essence, should this area be incorporated it could be contiguous to a proposed future City limit line on its northern boundary and a portion of its western boundary would be adjacent to the existing limits at the Asheville Airport.

METHODS OF INCORPORATION

The City of Asheville has been asked to adopt a resolution supporting the incorporation of Fletcher. This approval is needed in accordance with the North Carolina Constitution and General Statutes. Absent this approval by the City of Asheville an incorporation would have to be approved by a 3/5 majority of the General Assembly. An excerpt from the 1980 Joint Annexation Study Commission that was created by the North Carolina Association of County Commissioners and the North Carolina League of Municipalities speaks to this point "by both Constitution and Statue North Carolina has appropriately given preference to expanding cities as opposed to creating new ones. Both discourage incorporating new cities and towns near existing ones. Except by 3/5 majority, the General Assembly may not incorporate a new city closer that one mile to an existing city of 5000 - 10,000 population, within three miles of one with 10,000 - 25,000 population, within four miles of one with 25,000 - 50,000 population, and within five miles of one with over 50,000 population."

HISTORY OF ANNEXATION

The annexation law that is currently in effect throughout North Carolina is basically the same law that was adopted in 1959 with some revisions. It has been the policy of the state of North Carolina to allow for the orderly growth of municipalities since

that time. Annexations basically take place for the same reason that cities are formed in the first place, that being to provide local governmental services to citizens in areas that are urbanely developed. It has been said that that which is urban should be municipal. Numerous studies have stated the desirability of annexing urban areas as opposed to the creation of overlapping service districts or the creating of a number of smaller incorporated areas in a major urban environment. The law has been tested in a number of court cases and has with stood the scrutiny of numerous study commissions established by the General Assembly since 1959.

HISTORY OF INCORPORATION

The 1980 joint study commission speaks to the rational behind the state policy that annexations within an urban area are preferable to separate incorporations when it started "under these circumstances extending present city boundaries to include adjacent urbanizing territory is a logical approach to providing an area with local governmental services. Efficiency and economy, dictate this approach be taken. A recognition at the states separate urban areas are almost uniformly a single social and economic unit suggests annexation in preference to other possible approaches".

The report goes on to site the example of growth in the City of Raleigh. "One has only to consider an alternative to illustrate the desirability of encouraging annexation as a state policy in most cases. In 1900 Raleigh's population was about 13,600. Today it is estimated at about 160,000. If Raleigh's boundaries had not been expanded over this period and the surrounding area had grown as it has, Raleigh could be encircled today with 12 cities equal to its 1900 size. Or by 15 cities of Garner's current size or with an even larger number of overlapping special districts. It is difficult to image that the citizens of the area would be better served by such a large number of governments than they are by a single city. But in the absence of annexation by Raleigh, some alternate arrangement would have been necessary."

The joint commission concludes on the subject of incorporation by stating "the state's policy of encouraging annexation - which means enlarging the existing water plant rather than building a new one, or enlarging an existing police force rather than creating a new one - seems clearly in the best interest of all citizens when done with the safeguards that are built into North Carolinas annexation statutes."

ASHEVILLE BUNCOMBE LOCAL GOVERNMENT STUDY COMMISSION

On January 12, 1977 a report of the Asheville Buncombe local government study commission was presented. This report which was the result of a 15 month process involving a number of citizens dealt with how services should be provided to all citizens in

Buncombe County. The commission concluded that in the area of annexation "where areas are adjacent to the City of Asheville or the five smaller towns and are urbanely developed as defined by the annexation statutes or where the property owners submit petitions, the commission recommends that the areas be annexed as a means of providing these areas with the needed municipal type services."

The commission goes on to make a recommendation on new incorporations when it states"the commission recommends that no new incorporations take place within five miles of the City of Asheville's boundaries, the limitation now provided by law. The only possible exception to this rule is the Swannanoa Community, most of which is over five miles from Asheville's boundary". Therefore, it is obvious that the commission found that the general policy of the state of North Carolina should also apply to the Buncombe County area.

CONSIDERATIONS WHEN ANNEXING ACROSS A COUNTY LINE

As it was previously stated, at this point in time the City staff has not undertaken any studies involving the annexation of areas outside Buncombe County. We, therefore, have not done an exhaustive amount of research that would give the pros and cons of an annexation that would cross a county boundary.

Obviously, this type of an annexation would have many inherent problems which may or may not make an annexation of this manner attractive to the City of Asheville. As it was previously pointed out, this area is in a different judicial district and legislative district. Certainly there could be some cause for confusion among residents. There could also be a problem with overlapping school districts and tax districts. All of these overlapping districts would definitely cause operating concerns for the City of Asheville. However, one must keep in mind that at the present time there are also overlapping districts such as school districts that overlap the city boundaries, fire districts and sanitary districts that also may overlap each other all of which create some operating concerns for residents.

At the present time, there is not a prohibition of cities crossing county lines, in fact the following cities have been identified as being located in more than one County:

Battleboro	Blowing Rock
Elkin	Durham
High Point	Gibsonville
Mebane	Hickory
Chapel Hill	Kannapolis
Griffton	Longview
Kenley	Mount Olive
Rocky Mount	Sharpsburg

SUMMARY

For many years the state of North Carolina has said that it is important that as an area becomes urban in nature that it should be provided with municipal like services. There are a number of mechanisms for providing those services, such as:

1) A service district can be established if specific services are desired.

2) The State has said that if an area is outside of a currently incorporated and urbanized area that incorporation of a city is most appropriate.

3) The State has adopted as its policy that if an area develops in an urban manner as defined by the General Statutes, and if it is within close proximity to a larger urban area, then services should be provided through annexation.

The issue of crossing a county line in order to provide services to the town of Fletcher certainly adds additional considerations to any decision that the City Council of Asheville would have to make at this point in time. It is clear that if this area is in need of services that it is the policy of the State of North Carolina that a mechanism be chosen to provide those services. It is clear, however, that it is not the policy of the State of North Carolina to allow for an incorporation of any urbanized area for the reason of blocking the orderly growth of an incorporated urban area.

The Industrial development of the old Asheville/Hendersonville Airport property, the development of the Asheville Regional Airport, the extension of water lines by the City of Asheville, and the extension of sewer lines by MSD have contributed to the growth of this area. Fletcher most likely needs services. The question that needs to be answered is how can these services best be provided in the context of the urban area.

Pat Richie, Chairperson for residents of Fletcher who want to incorporate, said they are required by statute to notify Councils within five miles of an area seeking incorporation. She presented Mayor Bissette with the notification and asked that he sign that Council had received the notification that the Town of Fletcher intends to seek incorporation. She said this request would be presented to the 1989 General Assembly. She said during a recent meeting of the residents of the Fletcher Community, about 200 in attendance, it was the consensus of all attending that they wanted Fletcher to be incorporated. She said the residents are willing to be taxed for their services. She commented on a recent statement that people in Fletcher use Asheville and are not contributing to Asheville, stating that Fletcher is a large industrial area and the majority of the employees in these industries are not residents of Fletcher. She said as far as Council sending out "bad signals" to surrounding communities, the Fletcher community is in an entirely different county - Henderson County - and a different judicial district.

She said for these reasons and others the Town of Fletcher wishes to incorporate. She requested that Council approve a resolution supporting the incorporation of the Town of Fletcher pursuant to General Statute 120-166 (b) (3).

Vice-Mayor Michalove said in his opinion it would be in the best interests of both counties not to have another incorporated area. He said there are other options - such as special tax districts - preferable to incorporation to provide the Fletcher residents with the services they desire. He said officials are looking toward not creating more government but less government.

Vice-Mayor Michalove then moved to deny the request to adopt a resolution supporting the incorporation of the Town of Fletcher. This motion was seconded by Councilman Frank.

The City Attorney said the Statutory Commission can not make a positive recommendation on the request for incorporation if certain factors do not exist. He said if City Council does not adopt a resolution supporting the incorporation the General Assembly would have to have an affirmative vote of 3/5th to pass the request.

Councilman Bratton said she did not feel comfortable voting against the request because annexation of Fletcher by a future Council would disrupt school districts within the two counties.

Councilman Martin said there are no immediate plans to annex Fletcher. He said, however, the City of Asheville has a rather large investment in the Fletcher community with the Airport and water and sewer lines. He said State law favors less government rather than more government. He said all factors need to be weighed with the future in mind.

Councilman Frank said she feels Council is committed to the citizens of Asheville and more facts need to be determined prior to deciding whether to annex Fletcher in the future.

Councilman Price agreed with Councilman Frank. She said she would rather take no action but since Fletcher has asked then Council must take some action.

Mayor Bissette said he would not be in favor of annexing into another County and therefore, he would be voting against Vice-Mayor Michalove's motion.

Ralph Bishop spoke in opposition to Asheville annexing the Town of Fletcher.

Vice-Mayor Michalove's motion passed on a voice vote of 4-2, with Mayor Bissette and Councilman Bratton voting "no."

B. Ordinance No. 1711 - Budget Ordinance amendment allocating CDBG funds for the current year.

Mayor Bissette said the City has recently received its letter of credit from HUD for $997,000 in CDBG funds for the current year program. The allocation of these funds were approved by City Council on May 24, 1988 in Resolution No. 88-83. This ordinance will appropriate the funds into the budget.

Vice-Mayor Michalove moved for the adoption of Ordinance No. 1711. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1711 passed on first and final reading.

Ordinance Book No. 11 Page No. 317

C. Ordinance No. 1712 - Budget ordinance amendment to provide funds for staff car for long-distance travel.

Mayor Bissette said the City Motor Pool requires an additional reliable staff car for long distance travel. Money originally appropriated for inspector vehicles is better used for the City-wide Motor Pool.

Councilman Martin moved for the adoption of Ordinance No. 1712. This motion was seconded by Vice-Mayor Michalove.

On a roll call vote of 6-0, Ordinance No. 1712 passed on first and final reading.

Ordinance Book No. 11 Page No. 318

E. Sign permit for off-premises advertising sign at 535 Tunnel Road.

Mayor Bissette said Holland Outdoor Advertising Company has requested a sign permit to erect an off-premises advertising sign 14' x 48' at 535 Tunnel Road. This sign permit requires Council approval since it will be situated closer than 600' from a limited access highway.

Patty Tallerday, Acting Director of Planning, said the Zoning Ordinance requires approval of Council since the sign will be situated closer than 600' from a limited access highway. She said the sign will be within 600' of I-240 and is located close to Poncho's Restaurant on Tunnel Road. She said the sign will be 672 square feet per face and the sign meets all the criteria of the existing sign ordinance. She said the sign would fall under the amortization schedule of the proposed new sign

ordinance. She showed a video of the location of the proposed sign.

Attorney Gary Rowe, representing Holland Outdoor Advertising Company, said his client was granted a permit to proceed with the installation of the sign; entered into a contract with the Mann Company for the lease of the property; and expended funds for the installation of the sign prior to receiving a call to stop the installation since it would be within 600' of a limited access highway and would require the approval of Council. He presented a copy of the permit and showed pictures of the location of the proposed sign. He said his client has expended 90% of the $50,000 cost for the sign. He said his client complied with all city regulations. He said his client should be allowed to proceed with the installation of the sign.

After discussion, Vice-Mayor Michalove moved to table action on the sign permit request until next week giving the City Attorney an opportunity to research the request. This motion was seconded by Councilman Price and carried unanimously.

F. Approval of final plat - Silverstone Subdivision - end of New Haw Creek Road.

Mayor Bissette said the Asheville Planning and Zoning Commission on November 11, 1987, reviewed and approved the preliminary subdivision plat subject to: 1) Board of Adjustment granting a variance on required front footage on Lots 11 and 12; and 2) Letter of approval from Water and Sewer Department on adequacy of water. These contingencies have been complied with and the final plat is submitted for approval.

Patty Tallerday, Acting Director of Planning, said all the conditions outlined by the Planning and Zoning Commission have been complied with. She showed a video of the proposed subdivision.

Al Pearce, developer, said the roads would be constructed to North Carolina Department of Transportation standards.

Vice-Mayor Michalove moved to approve the final plat of the Silverstone Subdivision. This motion was seconded by Councilman Martin and carried unanimously.

V. CONSENT:

A. **Resolution No. 88-142 - Resolution authorizing the City Manager to transfer personal property intergovernmentally.**

SUMMARY: The Print Shop would like to transfer a lettering machine to the Buncombe County Library System. The Print Shop no longer needs this machine for lettering purposes.

Resolution Book No. 17 Page No. 234

B. Sale of Disposal Parcel 159 in the East End/Valley Street Community Improvement Program.

SUMMARY: The Housing Authority has tentatively accepted a bid for Disposal Parcel 159 in the East End/Valley Street Community Improvement Program from Mr. and Mrs. Kirklen Evans in the amount of $6,700 to be used for residential purposes. Parcel 159 is located on Lincoln Street. Mr. and Mrs. Evans are being displaced from their home at 46 Martin Luther King, Jr. Drive. They propose to build a new home approximately 1,200 sq.ft. with 3 bedrooms, 2 baths on Disposal Parcel 159. The Evans will be eligible for the "Dollar lot" subsidy.

C. Bids for Bulk Sodium Chloride (Rock Salt) for snow and ice control.

SUMMARY: Estimated requirement of 600 tons of bulk sodium chloride for snow and ice control for the winter of 1988-89 is recommended to the low bidder, Domtar Industries, Inc., Schiller Park, Illinois, in the amount of $21,960.00.

Upon motion of Councilman Frank, seconded by Councilman Price, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

REPORT - ASHEVILLE MALL EXPANSION PROJECT

The City Manager said a response has been received from Richard L. Coleman, Jr. relative to the City's letter to him dated August 30, 1988. He said a report would be given to members of Council in the near future. He also reported that the owners, developers, residents of White Pine Drive, and city staff had their first meeting to come up with solutions to problems involving the Asheville Mall Expansion Project.

COUNCILMAN FRANK - BOARD OF DIRECTORS - LEAGUE OF MUNICIPALITIES

Vice-Mayor Michalove moved that a letter be written recommending Councilman Mary Lloyd Frank to the Board of Directors of the North Carolina League of Municipalities. This motion was seconded by Councilman Price and carried unanimously.

RECOGNITION TO BARBARA BLAKE - NEWS REPORTER FOR ASHEVILLE CITIZEN-TIMES PUBLISHING COMPANY

Mayor Bissette commended Barbara Blake on receiving a national award for an article written on the Vietnam Memorial.

STAN KANUPE - 39 CAMPGROUND ROAD - COMPLAINT

Stan Kanupe of 39 Campground Road spoke to Council relative to individuals at 32 Campground Road having a used car business with junk cars and having large commercial trucks parked in the area.

Patty Tallerday, Acting Director of Planning, said the complaint was investigated and she showed members of Council a video of the location in question. She said it was determined that there is no car dealership in the area. She said a building that was moved on the property had writing on it relative to car sales but the owner has agreed to paint the building. She said there is one overgrown lot in the area to be cleared. She said there is no clear definition of parking of commercial trucks on one's property.

The City Manager said the staff would look into the legality of parking commercial trucks in a residential area.

COUNCILMAN MARTIN - CLEANING UP OF RIVERSIDE DRIVE

Councilman Martin asked that the city staff look into the possibility of screening the junk dealer's property on Riverside Drive. He said Riverside Drive needs to look better and cleaner.

The City Manager said the staff would look into this request and have a report for members of Council.

CLAIMS - MAXINE BLACKWELL (STREETS) - CARL REID (POLICE) - MARY JOHNSON (WATER) - MADGE BURLESON (SEWER)

The City Manager said the City received claims received from Maxine Blackwell, Carl Reid, Mary Johnson, and Madge Burleson.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP - COMMENTS RELATIVE TO INSTITUTE OF GOVERNMENT

Ralph Bishop again asked the City Attorney by what authority the Institute of Government has to interpret state laws.

The City Attorney responded that he had furnished Mr. Bishop with all the information available relative to the Institute of Government.

ADJOURNMENT

Mayor Bissette adjourned the meeting at 6:40 p.m.

MAYOR

CITY CLERK

Tuesday - September 27, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, and Russell Martin; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Deputy City Clerk Carol Hensley.

Absent: Councilman Walter Boland and Associate City Manager/City Clerk William F. Wolcott, Jr.

INVOCATION

The invocation was given by Councilman Martin.

APPROVAL OF MINUTES - SEPTEMBER 20, 1988

Mayor Bissette announced the approval of the minutes of the September 20, 1988 meeting as submitted.

I. PROCLAMATIONS:

A. Proclamation - September 26 - 30, 1988 - Minority Enterprise Development Week

Mayor Bissette read the proclamation and presented a copy to Charles McElrath with the Minority Enterprise Council. Mr. McElrath introduced James Grant, Minority Business Person of the Year and outlined the events taking place during Minority Enterprise Development Week.

C. Proclamation - "Foster Care Awareness Week" - October 2-9, 1988

Mayor Bissette read the proclamation. He said the proclamation was requested by the Foster Care agencies of Buncombe County - Bethany Christian Services - Catholic Social Services - Professional Parenting, Eliada Home, and the Buncombe County Department of Social Services. He presented a copy to Betsy Candler from the Buncombe County Department of Social Services.

D. Proclamation - October 2 - 8, 1988 - "Mental Illness Awareness Week"

Mayor Bissette read the proclamation and presented a copy to Mary Lane Travis from the Western Carolina Alliance for the Mentally Ill.

II. PUBLIC HEARINGS:

A. Public hearing relative to site plan of Lowe's of West Asheville to be located on Patton Avenue.

Mayor Bissette said the Asheville Planning and Zoning Commission on September 7, 1988, reviewed and approved the site plan subject to the following contingencies:

1. Letters of approval from MSD and Water and Sewer Services;
2. Letter from Asheville Fire Department approving adequacy of proposed lines for fire fighting purposes;
3. Recordable grading easement from adjoining property owners;
4. No grading or tree removal adjacent to R-2 areas until final approval; and
5. Sign package to comply with existing Sign Ordinance.

Mayor Bissette opened the public hearing at 4:37 p.m.

The Deputy City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Patty Tallerday, Acting Planning Director, said the project will be located on West Patton Avenue. She said approval has been received from the Metropolitan Sewerage District, Water and Sewer Department and the Fire Department. She said the project will be on 13 acres that is currently zoned Commercial Highway and R-2 Residential District. She said the developers met with the Malvern Hills Homeowners' Association regarding construction, buffering, lighting, screening of utilities, fencing and plantings. She said project will consist of two buildings with 70,000 square feet with a utility building in the rear of the property. She said the proposed project meets all group development regulations. She said the developer has received access approval from Patton Avenue for two entrances. She said grading and drainage permits have been issued. She said the sign package meets the existing sign ordinance requirements but does not meet the proposed sign ordinance and the developer is aware of the proposed regulations.

Ms. Tallerday showed a video of the property proposed to be developed.

After discussion, Mayor Bissette requested that the City Attorney review the buffer ordinance and determine, as a matter of interpretation, whether or not a 20' buffer is required on a commercial zone from a residential zone.

E. G. Roberts, School Road, Malvern Hills, said it was his understanding that there would be a 35' barrier for residents on Arthur Road.

After discussion, Mayor Bissette closed the public hearing at 5:04 p.m.

Councilman Price moved for the approval of the site plan of Lowe's of West Asheville to be located on Patton Avenue subject to the recommendations of the Planning and Zoning Commission and further that buffering remain as outlined by the Planning Staff-(being a 35' strip of land zoned R-2 is to serve as an undisturbed buffer strip around the east and north perimeter of the property. In addition a double row of white pines will be planted on the eastern side of the property and a fence will separate the developed portion of the project from areas where vegetation is to remain undisturbed - further described on the site plan approved September 27, 1988 on file in the Planning Department.) This motion was seconded by Councilman Martin and carried unanimously.

Charles Harkins, owner of Lot 50 which adjoins the property proposed to be developed, asked that the developer put in additional trees to alleviate the residents from seeing the project from their residences.

Mayor Bissette suggested that a committee be established consisting of a representative from the developer, the Malvern Hills Homeowners' Association, and the Planning Staff to solve any problems or complaints that might arise from the construction of the project.

B. Public hearing relative to closing a portion of Cliff Street.

Mayor Bissette said a petition has been filed by Westgate Shopping Center of Asheville, Inc. requesting that a portion of Cliff Street which has never been paved or otherwise utilized be permanently closed to the public use. This closing is in connection with the Westgate Shopping Center Expansion Project - Phase II.

Mayor Bissette opened the public hearing at 5:10 p.m.

The Deputy City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Patty Tallerday, Acting Planning Director, said the street is requested to be closed as a part of the approval requirements for the Westgate Parkway Expansion Project - Phase II. She said all questions regarding easements have been resolved.

George Coggins, owner of two lots facing on Cliff Street, opposed the closing of Cliff Street as proposed. He said the closing would eliminate right of way to his property on the north and south. He said no one has contacted him about the proposed closing.

The City Attorney commented that the Cliff Street proposed to be closed has never officially been paved or opened but is shown on a recorded plat. He said the closing as proposed would conform to public records and would be consistent with what is actually reality.

Alfred Adams, Attorney representing the Westgate Corporation, said the dedicated right of way for Cliff Street and the actual road construction which was originally done by George Coggins is different. He said this closing would clear up the records. He said when Mr. Coggins sold this property to the Westgate Corporation he reconfirmed the manner in which Cliff Street is recorded by deed reference. He said by making this reference Mr. Coggins reserved the easements from the City. He said Mr. Coggins originally created the present access and the closing would not violate Mr. Coggins rights.

Upon inquiry of Vice-Mayor Michalove, the City Attorney said the City maintains Cliff Street. He presented a letter to Mr. Coggins from former City Manager Weldon Weir, dated June 26, 1957 stating that the City would accept and maintain Cliff Street.

Mr. Coggins said if the City closes Cliff Street as proposed they would be taking his property without compensation. He said part of the area proposed to be closed is his property on the south. He said the matter may have to be decided in the courts.

The City Attorney indicated that the survey plat, prepared by Anders, shows Cliff Street as an official street. He said the 1985 official street inventory shows Cliff Street as a street.

At the request of the City Attorney, Councilman Price moved that Council go into executive session to discuss a legal matter. This motion was seconded by Councilman Frank and carried unanimously.

After reconvening, Mayor Bissette closed the public hearing at 5:53 p.m.

Councilman Price moved to postpone action on the closing of Cliff Street for two weeks. This motion was seconded by Councilman Frank and carried unanimously.

III. OLD BUSINESS:

A. Ordinance No. 1713 - Ordinance relative to the annexation of property generally known as the Beaverdam Valley Area.

Mayor Bissette said pursuant to Chapter 160A of the North Carolina General Statutes the City of Asheville has examined certain areas to determine if they qualify for annexation. Certain statutory procedures are required for annexation. A public hearing was held on September 13, 1988.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be reread in its entirety.

Upon inquiry of Mayor Bissette relative to questions raised during the public hearing, the City Manager said Beaverdam Volunteer Fire Department has indicated an interest in a contract for the continuance of their services in the Beaverdam area. He said there would be several options for the property owners in Beaverdam that will not be in the annexed area. He said as far as the boundaries are concerned the state statute regarding annexation doe not allow the forming of straight lines. He said whereever possible the natural topography lines are followed which sometimes creates irregular boundaries.

Dr. Bill Thurman, 180 Webb Cove Road, living outside the proposed annexation area, presented a petition containing approximately 193 signatures of property

owners in the area who oppose the proposed annexation.

George Hyler, speaking on behalf of residents in the Beaverdam area, said they would seriously question whether the City followed the requirements of the state statute regarding annexation. He said the proposed boundary does not follow ridge lines or street lines. He said in his opinion the Volunteer Fire Department personnel will not fight fires when they are paying taxes for that service no matter what the Fire Board decides. He said they would also dispute the percentages used for the proposed annexation.

Councilman Frank moved for the adoption of Ordinance No. 1713. This motion was seconded by Vice-Mayor Michalove.

On a roll call vote of 6-0, Ordinance No. 1713 passed on first reading with Councilman Bratton "abstaining".

Vice-Mayor Michalove requested that prior to the second reading of the ordinance that contact be made with the Beaverdam Volunteer Fire Department to get an interpretation on their requests. He also asked for a report on the individuals that were left out of the proposed annexation in terms of population.

B. **Ordinance No. 1714 - Ordinance relative to the annexation of property generally known as the Hansel Avenue Area.**

Mayor Bissette said pursuant to Chapter 160A of the North Carolina General Statutes the City of Asheville has examined certain areas to determine if they qualify for annexation. Certain statutory procedures are required for annexation. A public hearing was held on September 13, 1988.

Mayor Bissette said the ordinance was previously furnished to members of Council and it would not be read in its entirety.

Councilman Price moved for the adoption of Ordinance No. 1714. This motion was seconded by Councilman Frank.

On a roll call vote of 5-1, Ordinance No. 1714 passed on first reading, with Councilman Martin voting "no" and Councilman Bratton "abstaining".

C. **Ordinance No. 1715 - Ordinance relative to the annexation of property generally known as the Plemmons Property.**

Mayor Bissette said pursuant to Chapter 160A of the North Carolina General Statutes the City of Asheville has examined certain areas to determine if they qualify for annexation. Certain statutory procedures are required for annexation. A public hearing was held on September 13, 1988.

Mayor Bissette said the ordinance was previously furnished to members of Council and it would not be read in its entirety.

Vice-Mayor Michalove moved for the adoption of Ordinance No. 1715. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1715 passed on first reading, with Councilman Bratton "abstaining".

D. **Ordinance No. 1709 - Third reading of an ordinance establishing the City Hall Building as historic property.**

Mayor Bissette said plans for a major rehabilitation of the City Building are now being drafted. The Historic Resources Commission Director is already been given ample opportunity to express preservation concerns and sees no major problems with the direction of the project; however, the more formalized review designation would be more desirable and appropriate - the City setting an example with this most significant building.

Mayor Bissette said the ordinance was previously read on first and second readings and it would not be reread in its entirety.

On a roll call vote of 6-0, Ordinance No. 1709 passed on third and final reading.

Ordinance Book No. 11 Page No. 312-314

E. **Ordinance No. 1710 - Second reading of an ordinance zoning Oteen property annexed into the City Limits August 31, 1988.**

Mayor Bissette said the Asheville Planning and Zoning Commission on August 17, 1988 reviewed and recommended zoning for the Oteen Property which was annexed into the City Limits on August 31, 1988.

Mayor Bissette said the ordinance was previously read on first reading and it would not be reread in its entirety.

Verl Emrick, from the Planning Department, said after researching the proposed Heavy Industrial zoning it was determined that the current business could continue in operation with a Light Industrial zoning classification.

Councilman Price moved to amend Ordinance No. 1710 to zone Lot 30, Sheet 47, Ward 8 to Light Industrial in lieu of Heavy Industrial. This motion was seconded by Ccuncilman Frank and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1710 passed on second reading as amended.

F. Sign permit for off-premises advertising sign at 535 Tunnel Road.

Mayor Bissette said Holland Outdoor Advertising Company has requested a sign permit to erect an off-premises advertising sign 14' x 48' at 535 Tunnel Road. This sign permit requires Council approval since it will be situated closer than 600' from a limited access highway. Action continued from September 20, 1988 meeting.

Gary Rowe, Attorney representing Holland Outdoor Advertising Company, said his client does not have additional information to add except if Council desired they could determine the expenses incurred prior to being informed that the sign permit would have to be approved by the City Council. He said his client complied with the sign ordinances and acted in good faith and requested Council's favorable approval on the sign permit.

Rendall Davis spoke in opposition to huge signs near the interstates.

Councilman Bratton said in her opinion Council should move in the direction of putting a sign ordinance on the books so businesses would know what requirements they have to meet.

After discussion, Councilman Price moved to deny the sign permit for an off-premises advertising sign at 535 Tunnel Road. This motion was seconded by Councilman Frank.

Councilman Bratton said under the present sign ordinance the sign is allowed. She said Council should go by this ordinance until such time as a new ordinance is adopted or a moratorium on off-premises

signs is imposed. She said she felt this is unfair to businesses.

On a voice vote of 5-1, Councilman Price's motion passed with Councilman Bratton voting "no".

Vice-Mayor Michalove moved to schedule a public hearing relative to imposing a moratorium on off-premise advertising signs for October 11, 1988. This motion was seconded by Councilman Price and carried unanimously.

IV. NEW BUSINESS:

A. Ordinance No. 1716 - Ordinance amending Section 18-12 of the Code of Ordinances regulating noise.

Mayor Bissette said at Council's direction, the City Attorney has proposed an amendment to the noise ordinance to regulate noise within 500 feet of a residential district during building operations and has also proposed to include noise from loud speakers and amplifiers.

The City Attorney said recent activities brought to light that the noise ordinance needs to be revised for the protection of residential citizens. He outlined the new provisions for the noise ordinance regarding building construction and loud speakers.

Councilman Price asked if loud speakers could be screened to be diverted away from residential property even during day time hours. She asked if the loud speakers could be controlled by decibel levels.

Councilman Frank said there are noise problems 24 hours a day and there should be some means of controlling them.

Ruben Falk from Beverly Hills spoke to members of Council relative to a noise problem in their neighborhood from loud speakers on Tunnel Road. He requested that the noise ordinance be more specific.

Rendall Davis, 285 White Pine Drive, requested that when an exception is made to the noise ordinance that the residents be notified in advance. He also suggested that neighborhood organizations be given an opportunity to give input into the ordinance. He also suggested that ordinance define the enforcement of the ordinance and where an individual complains about noise. He said decibel levels at certain lengths should be enforced.

Mr. Wade from Skyland spoke to members of Council relative to the noise from Clarke Equipment Company particularly at night during the second shift. He said he has talked with city officials as well as officials from Clarke Equipment Company.

Bob Johnson, with Clark Equipment, VME Americas, said his company did not oppose annexation and looked forward to the advantages of being in the City Limits. He said their property is zoned Heavy Industrial and they manufacture heavy construction equipment. He said it is very difficult at times to keep the noise of the operation down but they have taken several measures to keep the noise to a minimum. He said his company has an expansion program which will invest over $6 million in 1989 and employ an addition 50 people. He asked that Council take these factors into consideration when acting upon a noise ordinance.

Councilman Frank moved for the adoption of Ordinance No.1716. This motion was seconded by Councilman Martin.

On a roll call vote of 6-0, Ordinance No. 1716 passed on first reading.

Vice-Mayor Michalove suggested that input be received from neighborhood groups and to look into the feasibility of including noise from teenagers in residential areas, particularly habitual noise makers. He said Council should also look at the industry side of the ordinance.

Councilman Bratton suggested getting input from local industries.

B. **Resolution No. 88-143 - Resolution authorizing the City Manager to execute an agreement with Municipal Advisors for a Pay Plan Contract.**

Mayor Bissette said this contract will authorize the North Carolina League of Municipalities, through Municipal Advisors, Inc., to conduct a City-wide pay and classification study.

Mayor Bissette said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Vice-Mayor Michalove, seconded by Councilman Martin, Resolution No. 88-143 was unanimously adopted.

C. **Ordinance No. 1717 - Budget Ordinance amendment for economic loss for garbage haulers in the newly annexed areas.**

Mayor Bissette said this budget amendment would provide funding to pay economic loss to solid waste collectors affected by annexation.

Mayor Bissette said the ordinance was previously presented to members of Council and it would not be read in its entirety.

Vice-Mayor Michalove moved for the adoption of Ordinance No. 1717. This motion was seconded by Councilman Frank.

On a roll call vote of 6-0, Ordinance No. 1717 passed on first and final reading.

V. CONSENT:

A. **Scheduling of public hearing relative to rezoning property at 22 Herron Avenue - Petition of Attorney Harold Bennett for Mr. David Caudel for October 11, 1988.**

SUMMARY: The Asheville Planning and Zoning Commission on September 7, 1988 reviewed and recommended approval of rezoning a portion of Lot 1, Sheet 10, Ward 6, from R-3 Residential District to CS Commercial Service District with a 5' strip along Herron Avenue to remain R-3 Residential District. Ordinance is attached for your consideration.

B. **Scheduling of public hearing relative to zoning property in the South Annexation area including the Racquet Club and Deerfield (Limestone) annexed into the City Limits for October 11, 1988.**

SUMMARY: The Asheville Planning and Zoning Commission has recommended zoning for the South Annexation Area.

C. **Motion authorizing the City Manager to request the County of Buncombe to amend their contract for a 911 system in order for the City to acquire a public safety answering point.**

D. Scheduling of public hearing relative to amending Zoning Ordinance No. 322, Section 30-11-3, wording amendment relative to protest petitions for October 11, 1988.

SUMMARY: The Asheville Planning and Zoning Commission on September 21, 1988 reviewed and recommended approval of a proposed wording amendment relative to protest petitions.

E. Resolution No. 88-145 - Resolution authorizing the Purchasing Director to dispose of two (2) water storage tanks by sealed bid.

SUMMARY: This is to dispose of two (2) water storage tanks located at the Southwick Development by sealed bid. The Water and Sewer Services Department has requested that these tanks be sold. They have been declared as surplus by the Water and Sewer Services Director.

Resolution Book No. 17 Page No. 237

F. Announcement that the October 4, 1988 Council meeting will be cancelled due to the North Carolina League of Municipalities Convention.

Upon motion of Councilman Martin, seconded by Councilman Frank, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

A. Resolution No. 88-144 - Resolution authorizing the City Manager to execute a lease agreement between the City of Asheville and WASV-TV Incorporated.

At the request of Mayor Bissette Councilman Martin moved to excuse Mayor Bissette from vote and participation in the matter regarding the lease agreement between the City and WASV-TV Incorporated due to a conflict of interest. This motion was seconded by Councilman Frank and carried unanimously.

Vice-Mayor Michalove said WASV-TV Incorporated previously entered into a lease agreement with the City of Asheville for the purpose of leasing space at the City's premises at White Fawn Reservoir, which lease agreement expired on or about March 31, 1988. The City has been negotiating with WASV-TV over the terms of a new lease agreement and an agreement for renewal has been reached. This resolution will authorize the City Manager to execute said lease agreement.

Upon motion of Councilman Frank, seconded by Councilman Martin, Resolution No. 88-144 was unanimously adopted.

Resolution Book No. 17 Page No. 236

B. Ordinance No. 1718 - Budget Ordinance amendment for communications buildings at White Fawn and Mt. Royal sites

Mayor Bissette said this budget amendment will provide funds for buildings at White Fawn and Mt. Royal communications sites. The additional two towers were provided by the private sector and these buildings will house equipment. This will provide the ability to rent tower space for an estimated $28,000 per year.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Vice-Mayor Michalove moved for the adoption of Ordinance No. 1718. This motion was seconded by Councilman Frank.

On a roll call vote of 6-0, Ordinance No. 1718 passed on first and final reading.

Ordinance Book No. 11 Page No. 366

C. Resolution No. 88-146 - Resolution appointing member to the Asheville Downtown Commission

Mayor Bissette said this resolution will appoint Maurice Winger as a member of the Asheville Downtown Commission to serve the unexpired term of Robert C. Pew, term expiring June 30, 1990, or until his successor is duly appointed and qualified.

Upon motion of Vice-Mayor Michalove, seconded by Councilman Martin, Resolution No. 88-146 was unanimously adopted.

Resolution Book No. 17 Page No. 238

Report - Asheville Mall Expansion Project

The City Manager presented members of Council with an updated report relative to the construction at the Asheville Mall Expansion Project.

CLAIMS - RUBY MAYBIN (SEWER) - MRS. GUS FILKINS (WATER) - CARTER POUNDERS, JR. (WATER) - MRS. BEN WALSH (WATER) - STEPHEN LAWSON

(CIVIC CENTER) - KRISTIN KELLY (CIVIC CENTER)- MARK CARLSON (SEWER) - O.C. DAVIS (SEWER) - DEBORAH MILLS (CIVIC CENTER) - W.F. HENNESSEE (SEWER)

The City Manager presented claims received from Ruby Maybin, Mrs. Bus Filkins, Carter Pounders, Jr., Mrs. Ben Walsh, Stephen Lawson, Kristin Kelly, Mark Carlson, O. C. Davis, Deborah Mills, W. F. Hennessee.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

REPORT OF GROUP DEVELOPMENT ACTIONS BY THE PLANNING AND ZONING COMMISSION

Patty Tallerday, Acting Director of Planning, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. She said in accordance with the new procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. She said the following action was taken by the Planning and Zoning Commission at their meeting on September 21, 1988.

(1) WESTERN AUTO ADDITION TO OAKLEY PLAZA SHOPPING CENTER

Ms. Tallerday said the Asheville Planning and Zoning Commission on September 21, 1988, reviewed and recommended approval of the group development plans of the Western Auto Addition to Oakley Plaza Shopping Center to be located on Fairview Road subject to the following conditions:

a) Buffering on their property in accordance with Section 30-3-14 of the Zoning Ordinance;

b) Participation agreement with City on sewer line.

Ms. Tallerday said no opposition was received prior to or at the meeting, and that this group development had been unanimously approved by the Planning and Zoning Commission.

The City Council took no action on this site plan, making the action of the Planning and Zoning Commission final.

(2) OAKVIEW APARTMENTS - WEST STREET OFF FAIRVIEW ROAD

Ms. Tallerday said the Asheville Planning and Zoning Commission on September 21, 1988, reviewed and recommended

approval of the group development plans of Oakview Apartments on West Street off Fairview Road subject to the following conditions:

a) City accepting 6" sewer line; and

b) Compliance with Erosion Control Ordinance.

Ms. Tallerday said on August 3, 1988, nine property owners spoke in opposition to the project. Concerns were increased traffic on Fairview Road, overcrowded school and apartments coming into the single-family neighborhood. On September 21, 1988, Mr. Adolphus Cook presented a letter of opposition bearing 55 signatures.

Vice-Mayor Michalove said due to the amount of interest he would prefer to have a public hearing on this group development. He moved to schedule a public hearing on the matter for Tuesday, October 18, 1988. This motion was seconded by Councilman Martin and carried unanimously.

ADJOURNMENT

Upon motion of Councilman Martin, seconded by Councilman Frank, the meeting adjourned at 7:55 p.m.

MAYOR

CITY CLERK

Tuesday - October 11, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, and Russell Martin; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Walter R. Boland

INVOCATION

The invocation was given by Councilman Price.

APPROVAL OF MINUTES - SEPTEMBER 27, 1988 MEETING

Mayor Bissette announced the approval of the minutes of the September 27, 1988 meeting.

I. PROCLAMATIONS:

A. Proclamation - Asheville Area Chamber of Commerce Day - October 11, 1988

Mayor Bissette read the proclamation. He stated that a copy was given to the Asheville Area Chamber of Commerce during a meeting on Monday, October 10, 1988.

B. Proclamation - Industrial Appreciation Day - October 14, 1988

Mayor Bissette read the proclamation. He said a copy of the proclamation would be presented to the Asheville Area Chamber of Commerce during a luncheon on Friday, October 14, 1988.

II. PUBLIC HEARINGS:

A. Public hearing relative to rezoning property at 22 Herron Avenue - Petition of Attorney Harold Bennett for Mr. David Caudel.

Ordinance No. 1719 - An Ordinance amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville," as amended, petition of Attorney Harold Bennett for David Caudel, property located at 22 Herron Avenue.

Mayor Bissette said the Asheville Planning and Zoning Commission on September 7, 1988 reviewed and recommended approval of rezoning a portion of Lot 1, Sheet 10, Ward 6, from R-3 Residential District to CS Commercial Service District with a 5' strip along Herron Avenue to remain R-3 Residential District.

Mayor Bissette opened the public hearing at 4:35 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Carol Albrice, from the Planning Department, said the Planning and Zoning Commission said the lot in question is located on Herron Avenue, one lot off of Haywood road. She said the lot is surrounded by residential and commercial service districts. She said the property has an offer to purchase contingent upon the rezoning. She said access would be off Herron Avenue. She said the Planning and Zoning Commission wanted a 5' strip along Herron Avenue to remain R-3 Residential District. She said the 2010 Comprehensive Plan does not indicate this property for an expanded commercial area. She said Herron Avenue is basically a low density residential area.

Mike Moser, Chairman of the Planning and Zoning Commission, said the Commission recommended approval but requested the 5' strip remain residential to allow for a buffer between the residential and commercial property.

David Caudel, petitioner, said the rezoning is requested to expand his business. He said if the property is not rezoned he will be forced to move his business to another location where City requirements are less restrictive. He said the only access will be from existing commercial property.

Mike Demos, Demos Furniture and Appliance Company, spoke in support of the rezoning.

Carol Albrice said no written oppositions to the rezoning was received. She said the main oppositions at the meeting were increased traffic in the area and the fact that Herron Avenue has no sidewalks.

Mayor Bissette closed the public hearing at 5:05 p.m.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Vice-Mayor Michalove moved for the adoption of Ordinance No. 1719 contingent upon the Planning and Zoning Commission's recommendation. This motion was seconded by Councilman Frank.

On a roll call vote of 6-0, Ordinance No. 1719 passed on first reading.

B. **Public hearing relative to amending Zoning Ordinance No. 322, Section 30-11-3, wording amendment relative to protest petitions.**

Ordinance No. 1720 - Ordinance amending Ordinance No. 322, known as "An ordinance providing for the zoning of the City of Asheville," as amended (wording amendment - Section 30-11-3. Protests)

Mayor Bissette said the Asheville Planning and Zoning Commission on September 21, 1988 reviewed and recommended approval of a proposed wording amendment relative to protest petitions.

Mayor Bissette opened the public hearing at 5:08 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Patty Tallerday, Acting Director of Planning, said the proposed amendment clarifies the protest petition procedure and sets forth a prescribed form to be used for protest petitions. She said this amendment also prescribes that the protest petition procedure does not apply for an initial zoning of property added to the territorial coverage of the ordinance as a result of annexation or otherwise.

The City Attorney said this amendment would allow the city ordinance to conform to state law.

Mayor Bissette closed the public hearing at 5:11 p.m.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Price moved for the adoption of Ordinance No. 1720. This motion was seconded by Councilman Martin.

On a roll call vote of 6-0, Ordinance No. 1720 passed on first reading.

C. Public hearing relative to zoning property in the South Annexation Area including the Racquet Club and Deerfield (Limestone) annexed into the City Limits.

Ordinance No. 1721 - An ordinance amending Ordinance No. 322, known as "An Ordinance providing for the zoning of the City of Asheville," as amended, South Annexation Area including Racquet Club and Deerfield

Mayor Bissette said the Asheville Planning and Zoning Commission has recommended zoning for the South Annexation Area.

Mayor Bissette opened the public hearing at 5:12 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, from the Planning Department, said the property to be rezoned is in the South Annexation Area including the Racquet Club and Deerfield annexed into the City Limits as of August 31, 1988. He presented tax maps and a generalized map showing the proposed zoning and a comparison document showing Limestone Township zoning compared to the proposed zoning by the Planning and Zoning Commission. He said the Planning staff met with the Limestone Planning Council, the Racquet Club, the Condominium Club and the Oak Forest Homeowners Association relative to the zoning. He presented certifications of notifications of the zoning that were sent to all affected property owners. He said in proposing the various zoning districts the 2010 Comprehensive Plan, nonconforming uses, and the concepts used by the Limestone Planning Council were taken into consideration.

By the use of a map, Mr. Emrick outlined the proposed zoning for all areas. He said a number of letters and telephone calls had been received requesting specific changes to the zoning as proposed by the Planning and Zoning, which were generally as follows:

1. Ward 7, Sheets 92, 93, 102: All R-2 change to R-1.

2. Ward 7, Sheet 94, Lot 49 and 8: Change to CG Commercial General

3. Ward 7, Sheet 109, Lots 1, 2, 3, 4, 5, 6, and 88: Change to R-4 Residential

4. Ward 7, Sheet 108, Lot 45: Change to R-3 Residential District.

5. Ward 7, Sheet 98, Lots 282 and 298: Change to CS and create a CS paragraph in the ordinance.

Zack Ledbetter requested that Ward 7, Sheets 92, 93, and 102 be changed to a R-1 Residential District classification.

Bill Estes, 186 Birch Lane, said the Limestone Planning Council worked long and hard on zoning the property in this area and requested that the area on Birch Lane remain zoned to a R-1 Residential District classification. He said this area is strictly a single family residential area.

Dick Woody, from Skyland, requested that Council leave the area as the Limestone Planning Council originally zoned it. He said the residents do not want duplexes, condominiums, or multifamily units in the area that is strictly a single family residential area.

Jane Heath, of 242 Birch Lane, said her property was not annexed but feels it will be next in Asheville's annexation process. She requested that Council follow as closely as possible the zoning by the Limestone Planning Council.

Clifford Edmonds, owner of Sweeten Creek Cottages, said he owns eight acres with mobile homes and cottages on the property. He requested that the zoning by the City allow him the opportunity to expand his business.

Mr. Emrick said the staff could possibly look at a R-4 zoning classification for Mr. Edmond's property which would allow for expansion of the business with a group development review.

Gene Shope from Arden said he owns seven acres on Sweeten Creek Road. He said he purchased the property for commercial use. He requested that his property be zoned CG Commercial General.

Mayor Bissette requested that the Planning Staff review the proposed zoning for Mr. Shope's property.

Albert Sneed, Attorney representing VME America (Clarke Equipment Company), said his client could comply with a Heavy Industrial zoning classification but could not comply with Light Industrial.

Garland Wade referring to the noise that comes from VME America's operations requested that Council do

something about the noise coming from the blowers at VME America. He said the company had stopped the knocking noise but needs to do something to stop the blowers from roaring in his house at night.

After discussion, Mayor Bissette closed the public hearing at 6:05 p.m.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Price moved for the adoption of Ordinance No. 1721. This motion was seconded by Councilman Frank.

Council requested that the Planning Staff look into all the requests made during the public hearing.

On a roll call vote of 6-0, Ordinance No. 1721 passed on first reading.

D. Public hearing relative to imposing a moratorium on the issuance of permits for off-premise advertising signs within the City of Asheville.

Ordinance No. 1722 - An Ordinance imposing a 90 day moratorium on the issuance of permits for off-premise advertising signs.

Mayor Bissette said the Sign Commission, the Asheville Planning and Zoning Commission and the Asheville City Council will conduct a joint work session regarding a proposed sign ordinance in the near future and thereafter the Planning and Zoning Commission and the City Council will consider action thereon. The process should be completed within ninety (90) days. It is in the best interest of the City and all residents of the zoning jurisdiction of the City, as well as persons engaged in the sign business, that signs not be erected during said interim period which would not conform to the new ordinance.

Mayor Bissette opened the public hearing at 6:10 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

The City Attorney said the 90 day time period should give the Sign Commission and Council sufficient time to get the new sign ordinance implemented. He said the ordinance would not apply to on-premises signs. He said he had received a call from Holland Outdoor

Advertising Company's attorney requesting that the ordinance not apply to signs with existing applications for sign permits.

June Grant, a local realtor, said businesses need published guidelines. She questioned the legality of the proposed ordinance.

Jack Brook, speaking on behalf of the Coalition of Scenic Beauty, said at one time he had presented to Council a petition containing some 2,000 signatures asking for a moratorium on sign permits until such time as tighter controls could be implemented.

Paul Garrison with Naegle Outdoor Advertising Company asked for a clarification on what signs would be included in the moratorium, particularly questioning whether or not existing sign permits would be valid.

A discussion was held relative to amending the proposed ordinance to impose a moratorium on signs that would not comply with the proposed revisions to the sign ordinance.

Mayor Bissette closed the public hearing at 6:24 p.m.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Martin moved for the adoption of the ordinance imposing a 90 day moratorium on sign permits for signs in excess of 150 square feet per face and in excess of 25' in height. This motion was seconded by Councilman Bratton.

On a roll call vote of 6-0, Ordinance No. 1722 passed on first reading.

Vice-Mayor Michalove moved to suspend the rules and proceed to the second reading of Ordinance No. 1722. This motion was seconded by Councilman Bratton and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1722 passed on second reading.

Vice-Mayor Michalove moved to suspend the rules and proceed to the third reading of Ordinance No. 1722. This motion was seconded by Councilman Bratton.

Councilman Price said she would prefer to give the public at least a week's notice of Council's intentions prior to the third reading of the ordinance.

The General Manager of Naegle's Outdoor Advertising Company objected to the ordinance as proposed stating that this would allow his competitor to build signs but would prohibit his company from building theirs. He said in his opinion the proposed ordinance is not fair.

After discussion Vice-Mayor Michalove and Councilman Bratton withdrew their motion to suspend the rules and proceed to the third reading of the ordinance.

III. OLD BUSINESS:

A. **Ordinance No. 1713 - Second reading of an ordinance relative to the annexation of property generally known as the Beaverdam Valley Area.**

Mayor Bissette said pursuant to Chapter 160A of the North Carolina General Statutes the City of Asheville has examined certain areas to determine if they qualify for annexation. Certain statutory procedures are required for annexation. A public hearing was held on September 13, 1988. The ordinance was read on first reading on September 27, 1988.

Upon inquiry of Vice-Mayor Michalove, the City Manager said the Beaverdam Volunteer Fire Department is negotiating a five year contract with the City of Asheville for providing fire protection services. He said the Volunteer Fire Department would continue to receive funding from the County for residents they serve that are not being annexed.

On a roll call vote of 6-0, Ordinance No. 1713 passed on second reading.

B. **Ordinance No. 1714 - Second reading of an ordinance relative to the annexation of property generally known as the Hansel Avenue Area.**

Mayor Bissette said pursuant to Chapter 160A of the North Carolina General Statutes the City of Asheville has examined certain areas to determine if they qualify for annexation. Certain statutory procedures are required for annexation. A public hearing was held on September 13, 1988. The ordinance was read on first reading on September 27, 1988.

On a roll call vote of 5-1, Ordinance No. 1714 passed on second reading with Councilman Martin voting "no".

C. **Ordinance No. 1715 - Second reading of an ordinance relative to the annexation of property generally known as the Plemmons Property.**

Mayor Bissette said pursuant to Chapter 160A of the North Carolina General Statutes the City of Asheville has examined certain areas to determine if they qualify for annexation. Certain statutory procedures are required for annexation. A public hearing was held on September 13, 1988. The ordinance was read on first reading on September 27, 1988.

On a roll call vote of 6-0, Ordinance No. 1715 passed on second reading.

D. **Ordinance No. 1706 - Third reading of Ordinance revising the Motor Vehicle Registration Tax - City Stickers.**

Mayor Bissette said this ordinance would increase revenue and decrease expenses with an estimated net result of $100,000 increase in revenue.

On a roll call vote of 6-0, Ordinance No. 1706 passed on third and final reading.

Ordinance Book No. 11 Page No. 305

E. **Ordinance No. 1710 - Third reading of an ordinance zoning Oteen property annexed into the City Limits August 31, 1988.**

Mayor Bissette said the Asheville Planning and Zoning Commission on August 17, 1988 reviewed and recommended zoning for the Oteen property which was annexed into the City Limits on August 31, 1988.

On a roll call vote of 6-0, Ordinance No. 1710 passed on third and final reading.

Ordinance Book No. 11 Page No. 315-316

F. **Ordinance No. 1716 - Second reading of an ordinance amending Section 18-12 of the Code of Ordinances regulating noise.**

Mayor Bissette said at Council's direction, the City Attorney has proposed an amendment to the noise ordinance to regulate noise within 500 feet of a residential district during building operations and has also proposed to include noise from loud speakers and amplifiers.

Mike Rollins, Executive Director of the Asheville Area Chamber of Commerce, said the Chamber's Economic Development Board will be talking to businesses about the ordinance prior to the third reading; however, from reading the ordinance it appears that businesses would not have a problem complying with the ordinance.

Councilman Martin said the present noise ordinance lists approximately 15 different types of noises that are prohibited. He questioned whether or not it is feasible to list all the specific noises.

The City Attorney said a noise does not have to be specifically prohibited by the noise ordinance in order to be unlawful since a section in the present ordinance provides that it is unlawful "for any person to create, assist in creating, permit, continue or permit the continuance of any unreasonably loud, disturbing or unnecessary noise in the City." He said what constitutes "unreasonably loud," "disturbing" or "unnecessary" would be a judgement call. He said courts could issue an injunction for the abatement of a certain noise.

John Walsh said the ordinance should specify decibel levels.

Rendall Davis said the ordinance should specify decibel levels.

After discussion, Councilman Martin moved to amend the ordinance to exclude the provision relative to loud speakers and sound amplification. This motion was seconded by Vice-Mayor Michalove.

After further discussion, Councilman Martin and Vice-Mayor Michalove withdrew their motion giving the City Attorney an opportunity to prepare an amendment to the proposed ordinance to exclude loud speakers and sound amplification.

Albert Sneed, Attorney representing VME Americas, said in his opinion his client would not be in violation of the proposed ordinance.

On a roll call vote of 6-0, Ordinance No. 1716 passed on second reading.

G. Resolution relative to closing a portion of Cliff Street.

Mayor Bissette said a petition has been filed by Westgate Shopping Center of Asheville, Inc. requesting that a portion of Cliff Street which has never been paved or otherwise utilized be permanently closed to the public use. This closing is in connection with the Westgate Shopping Center Expansion Project - Phase II. A public hearing on this matter was held on September 27, 1988. Action on the resolution was continued until October 11, 1988.

Councilman Frank moved to continue action on the resolution until November 15, 1988. This motion was seconded by Vice-Mayor Michalove and carried unanimously.

H. Presentation by Kenilworth Forest Community.

Rendall Davis from White Pine Drive said Council has not taken any action relative to the complaints the residents on White Pine Drive brought to Council regarding the construction of the Asheville Mall Expansion Project. He said in his opinion the residents in the area deserve some protection. He said something needs to be done about the lights that shine in his house from the mall parking lot. He said he would also like to review the buffering plan.

Mayor Bissette told Mr. Davis that the City staff has been working very close with the residents and the developer and a lot of action has been taken. He said the developer meets the code requirements. He said Council must rely on the City Attorney's opinion as to the developer complying with the ordinances.

The City Manager noted that the developer is complying with the Buffering ordinance, the landscaping plan has been submitted and approved, the lighting plan has been submitted and accepted and that shields will be placed on the parking lot lights after they area installed. He said the buffering plan around the Penny's Loading Dock area shows more trees and higher trees than required by the buffering ordinance. He said there are two outstanding issues that the City Staff is working with the developer on, those being the T-intersection of Bracketown Road and they will be presenting the specifications on that and the grading around the Mosely property and the developer would have to show the City a plan for compliance in this area.

Councilman Bratton said she felt the actions now should be handled administratively and that the City Manager, the City Staff, the residents and the developer are dealing with all the problems associated with the expansion project.

I. Report relative to Campground Road.

The City Attorney presented the following report to members of Council relative to Campground Road:

MEMORANDUM TO: W. Louis Bissette, Jr., Mayor, and Members of the Asheville City Council

FROM: Bill Slawter, City Attorney

DATE: October 7, 1988

SUBJECT: Campground Road

At the September 20 City Council meeting, Mr. Stan Kanope of 39 Campground Road addressed the City Council regarding various activities on his street which may be in violation of the zoning ordinance. One question related to the parking of trucks in the area, especially asphalt trucks that might be associated with a business being conducted in the area. During a discussion regarding his complaints, the question was raised of whether the parking of such trucks in that area would be illegal.

Section 28-51 of the Code of Ordinances prohibits the parking of large trucks on all City streets except for very limited purposes. If trucks such as the asphalt trucks which were described were being routinely parked on Campground Road, they would be in violation of Section 28-51. There is no ordinance which would prohibit the parking of a truck such as this on one's private property. In fact, I doubt that such an ordinance could lawfully be enacted.

If the trucks were being kept in that location as part of a business operation, then the owner of the trucks would be in violation of the zoning ordinance for operating a commercial establishment in a residential district. Gary McDaniels advises me that he has made trips to Campground Road since the September 20 City Council meeting, and has found no evidence of violation of the zoning ordinance. He stated further that he had not seen an asphalt truck in that area. One resident of Campground Road does apparently have a tractor-trailer truck parked in his yard on a recurring basis, but this does not violate any existing law.

Gary plans to continue to monitor the situation and will take action with regard to any zoning violations that he may discover. Please let me know if you have additional questions.

IV. NEW BUSINESS:

A. Ordinance No. 1723 - Budget Ordinance amendment to appropriate second year funding of Fair Housing Assistance Program Grant.

Mayor Bissette said to appropriate Second Year funding of $29,000 of HUD Fair Housing Assistance Program grant funds. Project will be subcontracted

with the Asheville-Buncombe Community Relations Council for staff support to the Fair Housing Commission.

Councilman Martin moved for the adoption of Ordinance No. 1723. This motion was seconded by Vice-Mayor Michalove.

On a roll call vote of 6-0, Ordinance No. 1723 passed on first and final reading.

Ordinance Book No. 11 Page No. 377

B. Report relative to city stickers.

The City Manager said the City is loosing approximately $42,000 annually by providing free parking in the parking garages to individuals having a city sticker. He said Council members need to decide whether or not to continue this procedure. He said perhaps another method of providing parking in the garages could be made available which could be administered in a better manner.

Council members indicated that they would like to study this issue more before making a decision on the city stickers.

V. CONSENT:

A. Sale of Disposal Parcel 57-C in the East Riverside Redevelopment Project.

SUMMARY: The Housing Authority has tentatively accepted a bid for Disposal Parcel 57-C in the East Riverside Redevelopment Project from Tri-Star Development in the amount of $117,000 to be used as Office-Institutional. Disposal Parcel 57-C is located on Southside Avenue and will be developed as a 10,000 square foot medical office complex.

B. Motion scheduling public hearing relative to Downtown Design Review for November 1, 1988.

Upon motion of Councilman Bratton, seconded by Vice-Mayor Michalove the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

REPORT OF GROUP DEVELOPMENT ACTIONS BY THE PLANNING AND ZONING COMMISSION

Patty Tallerday, Acting Director of Planning, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. She said in accordance with the new procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. She said the following action was taken by the Planning and Zoning Commission at their meeting on October 5, 1988.

(1) **HOTEL DEVELOPMENT - BILTMORE DAIRY PROPERTY - HENDERSONVILLE ROAD**

Ms. Tallerday said the Asheville Planning and Zoning Commission on October 5, 1988, reviewed and recommended approval of the group development plans of the Hotel Development - Biltmore Dairy Property -Hendersonville Road subject to the following conditions:

a) Compliance with the conditions set forth by the Town of Biltmore Forest Board of Adjustment.

b) Approval of erosion control plan by the City Engineering Department.

Ms. Tallerday said the Planning Department received a letter from Howard Johnson's Motor Lodge's attorney stating that they had not received sufficient notice that this matter was being heard by the Planning and Zoning Commission.

After discussion, Councilman Price moved to schedule a public hearing on the group development plan for October 25, 1988 if the City Attorney determines, after talking with the attorneys involved, that a public hearing is advisable. This motion was seconded by Vice-Mayor Michalove and carried unanimously.

CLAIMS - ARTHUR GOWAN (WATER) - NATTIE METCALF (SANITATION) - ELMER ROBINSON (SANITATION)- BOB LAWRENCE POWER EQUIPMENT COMPANY (WATER) - HARLIS QUEEN (SEWER) - PAT DAVIS (PARKING) - KENNETH WORLEY (SEWER) - BRIDGET JONES (PARKS) - T. GORDON WILF, JR. (POLICE)

The City Manager presented claims received from Arthur Gowan, Nattie Metcalf, Elmer Robinson, Bob Lawrence Power Equipment Company, Harlis Queen, Pat Davis, Kenneth Worley, Bridget Jones, and T. Gordon Wilf, Jr.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

LAWSUITS - JACK V. WEBB V. CITY OF ASHEVILLE AND DAN GRINDSTAFF D/B/A G & S FENCE COMPANY (PERSONAL INJURY)

The City Manager said the City was served with a lawsuit on September 26, 1988 involving Jack V. Webb v. City of Asheville and Dan Grindstaff d/b/a G & S Fence Company relative to a personal injury when playing softball at Shiloh field.

Mayor Bissette referred the lawsuit to the Corporation Counsel for investigation and recommendation.

ADJOURNMENT:

Upon motion of Councilman Martin, seconded by Vice-Mayor Michalove, the meeting adjourned at 7:55 p.m.

MAYOR

CITY CLERK

Tuesday - October 18, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, and Russell Martin; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Walter Boland and Councilman Wilhelmina Bratton

INVOCATION

The invocation was given by Mayor Bissette.

APPROVAL OF MINUTES - OCTOBER 11, 1988 MEETING

Mayor Bissette announced the approval of the minutes of the October 11, 1988 meeting.

I. PROCLAMATIONS:

A. **Proclamation - October 16- 23, 1988 - "NATIONAL BUSINESS WOMEN'S WEEK"**

Mayor Bissette proclaimed the week of October 16-23, 1988 as "National Business Women's Week". He recognized Doris Foster, State President of the Association. He said a copy would be presented to Mrs. Foster.

II. PUBLIC HEARINGS:

A. **Public hearing relative to site plan of Oakview Apartments to be located on West Street off Fairview Road.**

Mayor Bissette said the Asheville Planning and Zoning Commission on September 21, 1988, reviewed and recommended approval subject to the following contingencies:

1) City accepting 6" sewer line; and
2) Compliance with Erosion Control Ordinance.

Mayor Bissette opened the public hearing at 4:24 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Tom Elmore, with the Planning Department, said the site plan calls for a 10-unit apartment complex on West Street off Fairview Road. By the use of a video, Mr. Elmore showed the location of the proposed apartment complex. He also outlined the surrounding use of properties. He said the streets in the area are narrow but does meet city standards. He said the developer has agreed to install an 8" sewer line and the final plans for the sewer line will be submitted to the Engineering Department. He said the buffering proposed for the project will comply with the buffering ordinance. He said existing trees will be used as a buffer on three sides of the property. He said the property is zoned R-3 Residential District and the density requirements will be met with the proposed project.

Mr. Elmore said there was extensive opposition at the Planning and Zoning Commission hearing. He said the main objections to the project were traffic congestion,; overcrowding of schools; lowering of property values in the predominately single-family neighborhood; and reduced water pressure.

Shirley Wallin of 17 Melody Lane spoke in opposition to the proposed apartment complex stating that Oakley already has its share of apartments. She said the complex would downgrade the neighborhood, cause traffic congestion and overcrowd the schools. She said she also felt there would be erosion control problems with the project.

Debra Hyatt of Melody Lane spoke in opposition to the project stating that this would cause overcrowding in the schools.

Aldophus Cook of Melody Lane spoke in opposition to the project. He said he owns four houses in the area and felt more apartments in the area would cause more crime in the neighborhood. He said he also felt the apartments would lower property values in the area.

Ms. Molly Sandridge, developer, said the property is properly zoned for apartments and she had met with the neighbors in the area and tried to appease them. She said she felt the apartment complex would improve the surrounding neighborhood. She

said she had also agreed to erect a fence along the rear property lines of the apartment complex.

Upon inquiry of Vice-Mayor Michalove, the City Attorney said Council could not deny the project just because it is an apartment complex.

Another property owner on Melody Lane said the project would cause dust in their homes during construction. She said the project would also decrease their property values.

Mayor Bissette closed the public hearing at 4:56 p.m.

Councilman Frank moved for the approval of the site plan of Oakview Apartments to be located on West Street off Fairview Road subject to the conditions outlined by the Planning and Zoning Commission and further that the developer erect a fence along the rear property lines of the apartment complex. This motion was seconded by Councilman Martin and carried unanimously.

III. OLD BUSINESS:

A. **Ordinance No. 1719 - Second reading of an ordinance relative to rezoning property at 22 Herron Avenue - Petition of Attorney Harold Bennett for Mr. David Caudel.**

Mayor Bissette said the Asheville Planning and Zoning Commission on September 7, 1988 reviewed and recommended approval of rezoning a portion of Lot 1, Sheet 10, Ward 6, from R-3 Residential District to CS Commercial Service District with a 5' strip along Herron Avenue to remain R-3 Residential District.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

On a roll call vote of 5-0, Ordinance No. 1719 passed on second reading.

B. **Ordinance No. 1720 - Second reading of an ordinance relative to amending Zoning Ordinance No. 322, Section 30-11-3, wording amendment relative to protest petitions.**

Mayor Bissette said the Asheville Planning and Zoning Commission on September 21, 1988 reviewed

and recommended approval of a proposed wording amendment relative to protest petitions.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

On a roll call vote of 5-0, Ordinance No. 1720 passed on second reading.

C. **Ordinance No. 1721 - Second reading of an ordinance relative to zoning property in the South Annexation Area including the Racquet Club and Deerfield (Limestone) annexed into the City Limits.**

Mayor Bissette said the Asheville Planning and Zoning Commission has recommended zoning for the South Annexation Area.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Verl Emrick, from the Planning Department, said after reviewing requests for changes to the ordinance made during the public hearing, the Planning staff is recommending the following changes:

1. Ward 7, Sheets 92, 93, 102: All R-2 change to R-1
2. Ward 7, Sheet 94, Lot 49: Change to CG (Does not recommend changing Lot 8)
3. Ward 7, Sheet 109, Lots 1, 2, 3, 4, 5, 6, and 88: Change to R-4
4. Ward 7, Sheet 108, Lot 45: Change to R-3
5. Ward 7, Sheet 98, Lots 282 and 298: Change to CS and create a CS paragraph in the ordinance.

By the use of a map, Mr. Emrick showed the properties to be changed.

Gene Shope again requested that his property being Lot 8, Sheet 49, Ward 7 be changed to CG Commercial General. He said the property is not large enough for residential.

A discussion was held relative to rezoning a portion of Lot 8 to CG and leaving a buffer of R-2 Residential property.

After discussion, Councilman Michalove moved to amend Ordinance No. 1721 as recommended by the Planning Department. This motion was seconded by Councilman Martin and carried unanimously, with the understanding

that Lot 8 would be addressed prior to the third reading.

On a roll call vote of 5-0, Ordinance No. 1721 passed on second reading.

D. Ordinance No. 1722 - Third reading of an ordinance relative to imposing a moratorium on the issuance of permits for off-premise advertising signs within the City of Asheville.

Mayor Bissette said the Sign Commission, the Asheville Planning and Zoning Commission and the Asheville City Council will conduct a joint work session regarding a proposed sign ordinance in the near future and thereafter the Planning and Zoning Commission and the City Council will consider action thereon. The process should be completed within ninety (90) days. It is in the best interest of the City and all residents of the zoning jurisdiction of the City, as well as persons engaged in the sign business, that signs not be erected during said interim period which would not conform to the new ordinance.

Mayor Bissette said this ordinance was previously presented to members of Council and will not be read in its entirety. He said the ordinance was amended on second reading to impose a 90-day moratorium on sign permits for signs in excess of 150 square feet per face and in excess of 25' in height.

Ralph Bishop spoke in opposition to the ordinance imposing a moratorium on sign permits.

Frank Graham, a member of the Sign Commission and attorney for Naegle Outdoor Advertising Company, said his client could live with an ordinance imposing a moratorium on all off-premise advertising signs for a period of 90-days.

After discussion, Councilman Price moved to amend Ordinance No. 1722 to impose a moratorium on the issuance of sign permits for all off-premises advertising signs within the City of Asheville for a period of 90-days. This motion was seconded by Councilman Martin and carried unanimously.

On a roll call vote of 5-0, Ordinance No. 1722, as amended passed on third and final reading.

Ordinance Book No. 11 Page No. 375-376

E. **Ordinance No. 1713 - Third reading of an ordinance relative to the annexation of property generally known as the Beaverdam Valley Area.**

Mayor Bissette said pursuant to Chapter 160A of the North Carolina General Statutes the City of Asheville has examined certain areas to determine if they qualify for annexation. Certain statutory procedures are required for annexation. A public hearing was held on September 13, 1988.

Upon inquiry of Vice-Mayor Michalove, the City Manager said the Beaverdam Volunteer Fire Department has requested that the City negotiate a five year contract with the City of Asheville for providing fire protection services. He said the Volunteer Fire Department would continue to receive funding from the County for residents they serve that are not being annexed. He said the City also has plans to annex Beaverdam Run in the near future.

George Hyler, speaking on behalf of the residents of Beaverdam, again said it is his understanding that the members of the Beaverdam Volunteer Fire Department will not fight fires when they are paying taxes for the service. He said the proposed fire plan from North Asheville might not meet requirements.

Chief John Rukavina, of the Asheville Fire Department, said negotiations with the Beaverdam Volunteer Fire Department will begin after the adoption of the annexation ordinance.

On a roll call vote of 5-0, Ordinance No. 1713 passed on third and final reading.

Ordinance Book No. 11 Page No. 319 - 336

F. **Ordinance No. 1714 - Third reading of an ordinance relative to the annexation of property generally known as the Hansel Avenue Area.**

Mayor Bissette said pursuant to Chapter 160A of the North Carolina General Statutes the City of Asheville has examined certain areas to determine if they qualify for annexation. Certain statutory procedures are required for annexation. A public hearing was held on September 13, 1988.

Mayor Bissette said members of Council were previously furnished copies of the Ordinance and it would not be read in its entirety.

On a roll call vote of 4-1, Ordinance No. 1714 passed on third and final reading with Councilman Martin voting "no".

Ordinance Book No. 11 Page No. 337-350

G. Ordinance No. 1715 - Third reading of an ordinance relative to the annexation of property generally known as the Plemmons Property.

Mayor Bissette said pursuant to Chapter 160A of the North Carolina General Statutes the City of Asheville has examined certain areas to determine if they qualify for annexation. Certain statutory procedures are required for annexation. A public hearing was held on September 13, 1988.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

On a roll call vote of 5-0, Ordinance No. 1715 passed on third and final reading.

Ordinance Book No. 11 Page No. 351- 362

H. Ordinance No. 1716 - Third reading of an ordinance amending Section 18-12 of the Code of Ordinances regulating noise.

Mayor Bissette said at Council's direction, the City Attorney has proposed an amendment to the noise ordinance to regulate noise within 500 feet of a residential district during building operations and has also proposed to include noise from loud speakers and amplifiers.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

After discussion, Councilman Price moved to amend Section (a) of Section 18-12 of the Code of Ordinances to read as follows:"(a) It shall be unlawful for any person to create, assist in creating, permit, continue or permit the continuance of any unreasonably loud, disturbing and unnecessary noise in the City. Every use, activity and process shall be so operated that regularly reoccurring noises are not disturbing or unreasonably loud and do not cause injury, detriment or nuisance to any person." This motion

was seconded by Vice-Mayor Michalove and carried unanimously.(underlining denotes change)

Councilman Price moved to amend Ordinance No. 1716 to delete the section dealing with Loud Speakers and Sound Amplification to allow that the Subsection (11) remain as it is presently written. Further that Ordinance No. 1716 be amended to add the following sentence to subsection (b) (8) "This provision shall not apply to activities associated with street and highway construction." This motion was seconded by Councilman Frank and carried unanimously.

Barbara Melton, speaking on behalf of the Coalition of Neighborhoods requested that ordinance contain a provision to allow 3 written complaints or a 3 member board to request that the Building Inspector revoke a special permit. She also requested that Council leave the section in dealing with loud speakers and sound amplification. She also said she felt it was unfair to put the burden on private citizens to take out civil warrants for individuals causing noises.

The City Attorney said all of Mrs. Melton's request are really covered in the ordinance.

On a roll call vote of 5-0, Ordinance No. 1716 passed on third and final reading.

Ordinance Book No. 11 Page No. 363 - 364

IV. NEW BUSINESS:

A. Presentation by Asheville-Buncombe Discovery.

Karen Fields, Executive Director of the Asheville-Buncombe Discovery, presented a plan to members of Council for the purchase of an antique troller car from the Carley Capital Group in Charlotte. She said phase I of the plan would be the funding and acquisition of the Spindale Carriages; dry storage, planning/feasibility study, fund-raising, restoration, and exhibition of the troller car as a part of Pack Place. She said Phase II. would be negotiations with Norfolk and Southern, feasibility, design, and engineering; street construction and a functional system for transportation. She said the time frame for Phase I would be about 18 months to 3 years and Phase II time frame would be about 2 years.

Doug Swaim, Executive Director of the Asheville-Buncombe Historic Resources Commission, gave the history of the trolley cars as far as Asheville is concerned. He said Asheville was the first successful city to have electric street cars. He supported the plan presented by Karen Fields.

Neal Leach, with the Carley Capital Group, from Charlotte told members of Council what his company and the City of Charlotte are doing to have the trolley cars back. He showed members of Council snapshots of trolley cars that are being restored and will be running in Charlotte.

Judy Calvert, with the Historical Trolley Society, supported the efforts of the Asheville-Buncombe Discovery office.

Mayor Bissette thanked Karen Fields for her presentation and said Council would take her suggestions under advisement.

B. Resolution No. 88-146 - Resolution authorizing the Mayor to execute an agreement with the Elisha Mitchell Chapter of the National Audubon Society regarding the establishment of the Beaver Lake Sanctuary and Nature Study Area

Mayor Bissette read the resolution.

Scott Parker, President of the local chapter of the Audubon Society requested Council's support for the Sanctuary and said it would be a great asset to the City of Asheville. He said the County of Buncombe has approved $50,000 for the project.

Upon motion of Councilman Martin, seconded by Councilman Price, Resolution No. 88-146 was unanimously adopted.

Resolution Book No. 17 Page No. 238

Ordinance No. 1724 - Budget Ordinance Amendment to provide funding for Elisha Mitchel Chapter of the National Audubon Society.

Mayor Bissette presented a budget ordinance amendment in the amount of $25,000 to provide funding for the Elisha Mitchel Chapter of the National Audubon Society for the establishment of the Beaver Lake Sanctuary and Nature Study area. He said another $25,000 would be allocated in next year's budget.

Vice-Mayor Michalove moved for the adoption of Ordinance No. 1724. This motion was seconded by Councilman Price.

On a roll call vote of 5-0, Ordinance No. 1724 passed on first and final reading.

Ordinance Book No. 11 Page No. 378

C. Motion authorizing the City Manager to execute an agreement regarding streetscape improvements at 56-66 Biltmore Avenue.

The City Manager said Jim Samsel and Barry Olen is presently acquiring and renovating 56-66 Biltmore Avenue. He said they have requested that the City participate in the streetscape improvements. He said since the developers have made a major commitment to downtown and the Streetscape Task Force has recommended that requests such as these be handled on a case-by-case basis he was requesting Council's consent that the City be allowed to participate in streetscape improvements on a case-by-case basis.

It was Council's consensus that the City Manager and the Streetscape Task Force be permitted to participate in streetscape improvements on a case-by-case basis.

D. Resolution No. 88-147 - Resolution authorizing the City Manager to execute on behalf of the City of Asheville an engineering services agreement and any amendments with McGill Associates, PA for engineering services for the Streets and Sidewalks Improvements Program.

Mayor Bissette said this is for Phase No. 2 of the Streets and Sidewalks Improvements Program.

The City Manager outlined the projects for Phase No. 2 of the project.

Upon motion of Councilman Frank, seconded by Vice-Mayor Michalove, Resolution No. 88-147 was unanimously adopted.

Resolution Book No. 17 Page No. 239

E. Resolution No. 88-148 - Resolution authorizing the City Manager to execute on behalf of the City of Asheville an engineering services agreement and any amendments with Vaughn and Melton Engineers-Architects for engineering services for the Streets and Sidewalks Improvements Program.

Mayor Bissette said this is for Phase 3 of the Streets and Sidewalks Improvements Program.

The City Manager outlined the projects for Phase 3 of the project.

Upon motion of Vice-Mayor Michalove, seconded by Councilman Price, Resolution No. 88-148 was unanimously adopted.

Resolution Book No. 17 Page No. 240

F. **Ordinance No. 1725 - Budget ordinance amendment for City Hall First Floor Restrooms.**

Mayor Bissette said the Parks, Recreation, and Public Facilities Department recommends that an additional $14,000 be added to the City Hall First Floor Restroom Project which would make the total budget for this project $84,000. The contractor has already experienced problems that were not anticipated during construction and feels that more changes will be forthcoming.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Frank moved for the adoption of Ordinance No. 1725. This motion was seconded by Councilman Price.

On a roll call vote of 5-0, ordinance No. 1725 passed on first and final reading.

Ordinance Book No. 11 Page No. 379

G. **Ordinance No. 1726 - Budget Ordinance amendment for funding for the Communication Center.**

Mayor Bissette said this budget ordinance amendment is to provide funding to complete communication improvements.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Vice-Mayor Michalove moved for the adoption of Ordinance No. 1726. This motion was seconded by Councilman Price.

On a roll call vote of 5-0, Ordinance No. 1726 passed on first and final reading.

V. CONSENT:

A. Scheduling public hearing relative to amending Zoning Ordinance No. 322, Section 30-5-6, R-5 Residential District, Subparagraph (A) to permit Home Occupations for November 1, 1988.

SUMMARY: The Asheville Planning and Zoning Commission on September 21, 1988 reviewed and recommended approval of the proposed wording amendment.

B. Resolution No. 88-149 - Resolution prohibiting signs in the City Council Chambers during meetings of City Council.

SUMMARY: The City Council is concerned that the display of signs, banners, and related items during a City Council meeting by some persons might interfere with the ability of others to observe or participate in the City Council meetings. This resolution will provide that signs, banners, placards, pennants and related items shall not be displayed in the City Council Chambers during City Council meetings.

Resolution Book No. 17 Page No. 241

C. Resolution No. 88-150 - Resolution authorizing the City Manager to sign an agreement for continuation of employee assistance services with Personnel Performance Systems, Inc.

SUMMARY: This resolution will allow the city to continue the employee assistance program contract.

Resolution Book No. 17 Page No. 242

D. Resolution No. 88-151 - Resolution authorizing the City Manager to execute a Letter of Understanding with Asheville Area Rescue Squad.

SUMMARY: This is to update the Letter of Understanding between the City and the Asheville Area Rescue Squad.

Resolution Book No. 17 Page No. 243

E. Resolution No. 88-152 - Resolution requesting the North Carolina Department of Transportation to remove certain streets in the Oteen, Haw Creek, and Skyland Annexation Areas from the State Street System and place them upon the City Street System.

SUMMARY: This resolution will remove streets in Skyland, Oteen and Haw Creek Annexation Areas from N.C.D.O.T. Secondary Road System and place them upon the City Street System. This will allow streets to be claimed on 1989-90 Powell Bill mileage and increase Powell Bill revenues. It will also allow the City to begin street improvements scheduled through the Annexation Plan.

Resolution Book No. 17 Page No. 244

F. Bids for combination small diameter and mainline pipe television inspection system for City of Asheville Wastewater Collection Division.

SUMMARY: Award of bid for a combination small diameter and mainline pipe television system is recommended to Cues, Inc., Orlando, Florida, in the amount of $24,000. This recommendation for award is to the lowest bidder meeting requirements and specifications of our bid request.

G. Scheduling of public hearing relative to rezoning property at 92 Congress Street from R-3 Residential District to OI-Office Institutional District - Petitioner - Dr. John Holt - for November 1, 1988.

SUMMARY: The Asheville Planning and Zoning Commission on October 5, 1988, reviewed and recommended approval of rezoning Ward 4, Sheet 11, Lots 34, 34-1/4, and 278, from R-3 Residential District to OI - Office Institutional District. (Property is located at 92 Congress Street, Livingston Street and Pine Grove Avenue)

H. Scheduling of public hearing relative to rezoning property on North Louisiana Avenue from R-3 Residential District to CH Commercial Highway District - Petitioner - Ms. Jeanne Y. Palyok - for November 1, 1988.

SUMMARY: The Asheville Planning and Zoning Commission on October 5, 1988, reviewed and recommended approval of rezoning Ward 12, Sheet 7, Lot 92, from R-3 Residential District to CH Commercial Highway District.

Upon motion of Vice-Mayor Michalove, seconded by Councilman Martin, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

CLAIMS - REBECCA ROSE (WATER) - LILLIAN LOGAN (WATER) - MARK MAYS (SEWER) - SANDY DEBRUHL (WATER) - GLENN MCELREATH (TRAFFIC ENGINEERING) - SUZANNE KONOPKA (WATER) - TED RYANS (STREETS) - TITUS GLOVER (SEWER)

The City Manager presented claims received from Rebecca Rose, Lillian Logan, Mark Mays, Sandy DeBruhl, Glenn McElreath, Suzanne Konopka, Ted Ryans,and Titus Glover.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

ADJOURNMENT:

Upon motion of Vice-Mayor Michalove, seconded by Councilman Martin, the meeting adjourned at 7:05 p.m.

MAYOR

William F. Wolcott
CITY CLERK

Tuesday - October 25, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice Mayor Kenneth M. Michalove, Councilmen Wilhelmina Bratton, Mary Lloyd Frank, Norma T. Price, and Russell Martin; Corporation Counsel William F. Slawter; Associate City Manager/City Clerk William F. Wolcott, Jr. and Acting Deputy City Clerk Margaret Messer

Absent: Councilman Walter Boland and City Manager Douglas O. Bean

INVOCATION

The invocation was given by Vice Mayor Michalove.

APPROVAL OF THE MINUTES

Mayor Bissette announced the approval of the minutes of the October 18, 1988.

I. PROCLAMATIONS:

A. Proclamation - "Remembrance of the Night of Pogroms" - November 6-13, 1988

Mayor Bissette proclaimed the week of November 6-13, 1988 as "Remembrance of the Night of Pogroms."

B. Proclamation-"Meals on Wheels"-Month of November, 1988

Mayor Bissette proclaimed the month of November, 1988 as "Meals on Wheels" and presented the proclamation to Becky Johnson, Board Chairman of Meals on Wheels.

Ms. Johnson expressed her appreciation to the Mayor, Members of Council, and the community for their support of the Meals on Wheels Program.

II. PUBLIC HEARINGS:

A. Public hearing relative to site plan of Hotel Development on Biltmore Dairy Property to be located on Hendersonville Road.

Mayor Bissette said the Asheville Planning and Zoning Commission on October 5, 1988, reviewed and approved the site plan subject to the following contingencies:

1. Compliance with the conditions set forth by the Town of Biltmore Forest Board of Adjustment.

2. Approval of erosion control plan by the City Engineering Department.

Mayor Bissette opened the public hearing at 4:25 P.M.

The Acting Deputy City Clerk presented the notice to the public and the affidavit of publication.

Tom Elmore, Planning Department, said the site plan calls for 160 room, 5 story facility to be located on the existing Dairy Bar and former Biltmore Dairy. He said the facility is located in the City of Asheville and the Town of Biltmore Forest, and that access to the facility would be from Hendersonville and Vanderbilt Roads. By use of a map, Mr. Elmore pointed out the proposed site work to take place and the relocation of the road. He said the existing trees would remain, but additional trees will be also be planted. He said the developer has agreed to comply with the requirements set forth by the Town of Biltmore Forest and the City's Erosion Control Ordinance. Mr. Elmore said one public comment had been [received relative to sewer, but that the Water and Sewer Department has affirmed that the present sewer service is adequate to serve the proposed facility.

Mr. Jack Cecil of The Biltmore Company said he is very excited about the proposed facility and feels that it would be an asset to the City of Asheville. He said construction is expected to begin right away.

Mayor Bissette closed the public hearing at 4:25 P.M.

Councilman Bratton moved for the adoption of the site plan of the proposed hotel subject to the contingencies imposed by the Planning and Zoning Commission. This motion was seconded by Councilman Frank and carried unanimously.

III. OLD BUSINESS:

A. Third reading of Ordinance No. 1719, an ordinance relative to rezoning property at 22 Herron Avenue - Petition of Attorney Harold Bennett for Mr. David Caudel.

Mayor Bissette said the Asheville Planning and Zoning Commission on September 7, 1988 reviewed and recommended approval of rezoning a portion of Lot 1, Sheet 10, Ward 6, from R-3 Residential District to CS Commercial Service District with a 5' strip along Herron Avenue to remain R-3 Residential District.

Mayor Bissette said this ordinance was previously read and will note be reread in its entirety unless there is a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1719 passed on third and final reading.

Ordinance Book No. 11, Page 367

B. Third reading of Ordinance No. 1720, an ordinance relative to amending Zoning Ordinance No. 322, Section 30-11-3, wording amendment relative to protest petitions.

Mayor Bissette said the Asheville Planning and Zoning Commission on September 21, 1988 reviewed and recommended approval of a proposed wording amendment relative to protest petitions.

Mayor Bissette said this ordinance was previously read and will not be reread in its entirety unless there is a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1720 passed on third and final reading.

Ordinance Book No. 11, Pages 368-369

C. Third reading of Ordinance No. 1721, an ordinance relative to zoning property in the South Annexation Area including the Racquet Club and Deerfield (Limestone) annexed into the City Limits.

Mayor Bissette said the Asheville Planning and Zoning Commission has recommended zoning for the South Annexation Area.

Mayor Bissette said this ordinance was previously read and will not be reread in its entirety unless there is a specific request to do so.

Verl Emrick, Planning Department, said at the October 18th meeting Mr. Gene Shope had requested that his property (Ward 7, Sheet 49, Lot 8) be zoned CG Commercial General. He said the Planning Department had reviewed this request and recommends that Council amend the ordinance to zone Ward 7, Sheet 49, Lot 8 CG Commercial General.

Vice Mayor Michalove said he had visited the area in question and that the lot is a wooded, vacant lot located on 25-A. He said the CG zone would allow commercial uses, but would not permit uses as wide as the commercial zone designation.

Vice Mayor Michalove moved to amend the ordinance to rezone Lot 8, Sheet 94, Ward 7 to CG Commercial General. This motion was seconded by Councilman Martin and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1721 passed on third and final reading, as amended.

Ordinance Book No. 11, Pages 370-374

IV. NEW BUSINESS:

A. Resolution No. 88-153, a resolution adopting a protest petition form to be used to protest against an amendment, supplement, change, modification or repeal of any zoning regulations.

Mayor Bissette said Ordinance No. 1720 provides that all protest petitions shall be on a form prescribed and furnished by the City. He said this resolution will provide that all protest petitions be on a form prescribed and furnished by the City.

Mayor Bissette said members of Council were previously furnished copies of the resolution, and it would not be read in its entirety unless there was a specific request to do so.

Councilman Price moved for the adoption of Resolution No. 88-153. This motion was seconded by Vice Mayor Michalove and carried unanimously.

Resolution Book No. 17, Pages 244-245

B. **Resolution No. 88-154, a resolution establishing a Drug Task Force.**

Mayor Bissette read the resolution. He said the residents of the Hillcrest Community had raised the consciousness level of the residents of the City of Asheville and Buncombe County about the drug problem in our community. He said as a result of a community meeting involving interested citizens, officials from other towns within Buncombe County and law enforcement officials, the City Council decided to establish a Drug Task Force representative of the entire community to address the problems and make recommendations concerning the drug problem. He said the Council would not appoint members to the Task Force today since staff had been unable to contact all the proposed members.

Councilman Bratton moved for the adoption of Resolution No. 88-154. This motion was seconded by Councilman Martin and carried unanimously.

Resolution Book No. 17, Pages 246-247

V. CONSENT:

VI. OTHER BUSINESS:

CLAIMS - CECIL JACKSON, JR. (STREETS), PAT MORGAN (STREETS), JANET BLACK (PARKS), FRIEDA CURTIS (WATER) AND STEVE BRANSTETTER (WATER)

The City Manager presented claims received from Cecil Jackson, Jr., Pat Morgan, Janet Black, Frieda Curtis and Steve Branstetter.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

COUNCILMAN FRA - INTERGOVERNMENTAL SERVICES COMMITTEE MEETING

Councilman Frank requested that arrangements be made for the Intergovernmental Services Committee to meet on Tuesday, November 1, 1988, at 12:30 P.M. in the Council Conference Room.

DAVID ANDERS - PRESIDENT OF FIREFIGTERS UNION - INQUIRY RELATIVE TO DISABLED FIREFIGHTERS PENSION AND DISABILITY FUND

Mayor Bissette recognized David Anders, President of the Firefighters Union, and the disabled firefighters in attendance. Mayor Bissette said that due to a medical leave of Lla Leet Hudson, applications for the supplemental pension plan had not

been processed. However, he said, Ms. Hudson is due to return to work next week and a meeting will be scheduled in November to begin hearing the applications for benefits.

David Anders said the disabled firefighters had been waiting a long time and are very anxious for their applications to be processed. He said there was also a question raised about whether or not the benefits would be retroactive.

Corporation Counsel Bill Slawter that the retroactive issue was to be addressed in an ordinance that would be retroactive to January 1, 1988, but that he didn't see how the benefits could be retroactive to that time.

Mayor Bissette said there is a possibility that Council might be able to look at retroactive benefits, but that they would just have to wait and see how many applications there were and what the cost of the benefits would be.

MRS. JAMES C. PORTER - REQUEST TO NAME PARK FOR HUSBAND

Mrs. James C. Porter appeared before the City Council to request that the new proposed park for Martin Luther King Boulevard be named after her deceased husband, James C. Porter. She said her husband was a humanitarian and had made many contributions to the City of Asheville and its citizens.

Mayor Bissette said the Council would ask the East End Community Association for a recommendation on this request and would be back in touch with Mrs. Porter.

RALPH BISHOP - INQUIRY RELATIVE TO COUNCIL MINUTES

Ralph Bishop addressed the Council relative to what the minutes of the Council should contain.

Councilman Price told Mr. Bishop that the City Council minutes should reflect only the action taken by the City Council and not what somebody says.

ADJOURNMENT

Upon motion of Councilman Price, seconded by Councilman Frank, the meeting adjourned at 5:05 P.M.

MAYOR

CITY CLERK

Tuesday - November 1, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice Mayor Kenneth M. Michalove, Councilmen Wilhelmina Bratton, Mary Lloyd Frank, Norma T. Price, and Russell Martin; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Walter Boland

INVOCATION

The invocation was given by Councilman Frank.

APPROVAL OF THE MINUTES

Mayor Bissette announced the approval of the minutes of the October 25, 1988.

I. PROCLAMATIONS:

II. PUBLIC HEARINGS:

A. Public hearing relative to Downtown Design Review. Ordinance No. 1727 - Ordinance Creating Article 6A of the Code of Ordinance Providing Standards for Design Review Affecting Property in and near Downtown Asheville

Mayor Bissette said Downtown Asheville is recognized as a special place to be protected as a community resource because it represents an important part of Asheville's heritage and because its unusual character creates an identity for Asheville. Downtown Asheville is also the major center of business and cultural activity. This ordinance will establish boundaries of the Downtown Design Review Area and will authorize the Planning and Zoning Commission to establish guidelines for new construction and rehabilitation in the Downtown Design Review Area. All construction work requiring a building permit, sign permit, or zoning review or a variance must be submitted to the Planning and Zoning Commission for review prior to the issuance of the permit. Routine maintenance will not be subject to review, but procedures for cleaning and painting buildings must be reviewed.

Mayor Bissette opened the public hearing at 4:14 P.M.

The City Clerk presented the notice to the public setting the time and date of the public hearing and the affidavit of publication.

City Attorney Bill Slawter said the ordinance drafts the downtown review guidelines and authorizes the Planning and Zoning Commission to divide the downtown into three (3) sections - Core Area, Gateway Corridors, and Periphery - and to establish different guidelines for each of these areas. He said the ordinance will also permit the Planning and Zoning Commission to establish development review standards and guidelines for each area within the Downtown Design Review Area as they may find appropriate for building permits.

Mr. Slawter said every application for a building permit and other improvements will require a review by the Planning and Zoning Commission regarding those improvements prior to the issuance of any building permit. However, he said, if a building permit is not required, the proposed improvement must still be reviewed.

Mr. Slawter said on those projects subject to group development review, design review would be performed as the project goes through the Group Development process, and the Planning and Zoning Commission would make recommendations with regard to design review at that time. However, on those projects not subject to group development review, he said the Planning and Zoning Commission would review the application at its first regularly scheduled meeting immediately following the filing of the application, so the applicant wouldn't have to wait for a public hearing to be scheduled.

Mr. Slawter said all construction work requiring a building permit, sign permit, zoning review or a variance must be submitted to the Planning and Zoning Commission for review prior to the issuance of any permit. He said routine maintenance would not be subject to the review, but that procedures for cleaning buildings such as sandblasting and painting buildings must be reviewed.

Mr. Slawter said the final recommendations with regard to design review are not mandatory at this time, but that all projects must go through the process.

In response to a question from Vice Mayor Michalove, Mike Moser, Chairman of the Planning and Zoning Commission, said the Commission felt it might be best if a project met all the guidelines to let it proceed through the system without having to go before the Planning and Zoning Commission. He said if the project did not meet all the

CORRECTION

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guidelines, it would have to go through the Planning and Zoning Commission hearing. However, he said the Legal staff had indicated a problem with this process, and that all projects would have to go through the process.

City Attorney Bill Slawter said the problem with this approach would be when staff and the applicant disagree.

Bob Carr, Chairman of the Downtown Commission, spoke in favor of the design review process and said the Commission had worked on the guidelines for 2 years. He said the guidelines have the potential for enhancing downtown Asheville.

Mike Moser, Chairman of the Planning and Zoning Commission, said the Commission is very enthusiastic about the guidelines and they are consistent with the 2010 Plan. He said the Commission does want voluntary compliance from the downtown businesses. However, he said the Commission would be monitoring the guideline process on a quarterly basis for the next year in order to determine whether or not to recommend to Council that the guidelines become mandatory. He said some of the things the Commission would be looking at during their quarterly review would be ratio for compliance, costs and problems with specific areas of the guidelines. He said at the end of a year if the Commission sees non-voluntary compliance, then the Commission may make a recommendation to City Council that the guidelines become mandatory. He said it was the intent of the Commission to make the guidelines easy and simple so that people could understand them, so the staff could assist them, and so people wouldn't have to hire an architect.

Mark Rosenstein, Chairman of the Asheville Downtown Association, said after the Association had distributed the proposed guidelines to its 150 members, they polled the membership and the response they received was that they were in favor of and supported the guidelines. He said only three members of the Association did not respond.

Carroll Hughes, Chairman of the Downtown Design Review Committee, said the Council had charged the Committee with the responsibility of bringing back a consensus-backed project, which he said he felt the Committee had done. He said the response from the downtown businesses had generally been that the had no real problem with the document itself, but did have some concern with the implementation of the guidelines. He said he hoped Council would approve the guidelines in order to get the process going for the betterment of Downtown Asheville.

Verne Rhoades, Trustee at Wachovia Bank and owner of property in Downtown Asheville, said he thought the guidelines will enhance property in Downtown Asheville. He said he felt the guidelines should be mandatory.

Don Martell said he had came to Asheville about a year ago and had purchased the Penney's building. He said he had been working with his architect and wants to abide by the downtown design review process. He encouraged Council to adopt the guidelines.

Doug Campbell, Architect, said his office had been located in Downtown Asheville for the past 4-1/2 years. He said he very strongly supports the review process and also supports making the guidelines mandatory. He said mandatory guidelines would be in the best interest of Asheville and would help to make a more viable downtown. He said the downtown area of any city is something people can relate to and is something they always want to show off when they have out-of-town guests. He said the City needs design review in order to protect and preserve downtown. He said it would be in the City's best interest not to let people build anything until they could afford to conform with the guidelines.

Pat McGuire, Chairman of the Streetscape Committee, said she wholeheartedly supported the design review guidelines and would like to see them become mandatory.

Roger McGuire, Co-Owner of 60 Haywood Street, spoke in favor of the design review process. He said the guidelines would make our downtown area more livable and beautiful.

All members of Council voiced their support for the guidelines and also their support in hiring the necessary staff to implement and enforce the guidelines.

Mayor Bissette closed the public hearing at 4:47 P.M.

Mayor Bissette and Council Members commended Carroll Hughes and the Design Review Committee on presenting City Council with a producing a document that was approved and supported by a consensus of the downtown property owners.

Mayor Bissette said this ordinance was previously distributed to Members of Council and would not be read in its entirety.

Councilman Bratton moved for the adoption Ordinance No. 1727. This motion was seconded by Councilman Frank.

On a roll call vote of 6-0, Ordinance No. 1727 passed on first reading.

Vice Mayor Michalove moved to suspend the rules and proceed to the second reading of Ordinance No. 1727. This motion was seconded by Councilman Martin and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1727 passed on second reading.

B. **Public Hearing - Ordinance No. 1728, an ordinance amending Zoning Ordinance No. 322, Section 30-5-6, R-5 Residential District, Subparagraph (A) to permit Home Occupations.**

Mayor Bissette said the Asheville Planning and Zoning Commission on September 21, 1988 reviewed and recommended approval of the proposed wording amendment which would permit home occupations in the R-5 Residential District.

Mayor Bissette opened the public hearing at 4:50 P.M.

The City Clerk presented the notice to the public setting the time and date of the public hearing and the affidavit of publication.

Patty Tallerday, Acting Director of Planning, said the home occupation use is permitted in the R-2, R-3, and R-4 Districts and that this use was inadvertently left out of the R-5 District when the Zoning Ordinance was revised in 1977.

Mayor Bissette closed the public hearing at 4:53 P.M.

Mayor Bissette said this ordinance was previously distributed to Members of Council and would not be read in its entirety.

Councilman Martin moved for the adoption of Ordinance No. 1728. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1728 passed on first reading.

Vice Mayor Michalove moved to suspend the rules and proceed with the second reading of Ordinance No. 1728. This motion was seconded by Councilman Frank and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1728 passed on second reading.

Vice Mayor Michalove again moved to suspend the rules and proceed with the third reading of Ordinance No. 1728. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1728 passed on third reading and final reading.

Ordinance Book No. 11, Pages 385 and 386

C. Public Hearing - Ordinance No. 1729, an ordinance amending Ordinance No. 322, an ordinance providing for the zoning of the City of Asheville (Rezoning Property at 92 Congress Street - Petitioner - Dr. John Holt, et al)

Mayor Bissette said the Asheville Planning and Zoning Commission on October 5, 1988, reviewed and recommended approval of rezoning Ward 4, Sheet 11, Lots 34, 34-1/4, and 278, from R-3 Residential District to OI Office Institutional District. (Property is located at 92 Congress Street, Livingston Street and Pine Grove Avenue).

Carol Alberice of the Planning Department said this is a request to rezone 3 lots from R-3 Residential District to OI Office Institutional District. She said the lots proposed for rezoning are bordered on the North by R-3 low density, on the South by R-3 medium density, on the West by R-3 medium density, and on the East by OI Office Institutional. She said the Buffering Ordinance would require a 12' buffer strip of trees facing Congress Street. She said there is also a public alley, which is overgrown and runs between Lots 34 and 278.

Ms. Alberice said 18 property owners were notified of the proposed rezoning and public hearing. She said a protest petition had been received, but was disqualified because only two (2) of the people who signed the petition actually lived within a 100-foot radius of the proposed rezoning.

By use of a video, Ms. Alberice showed the property to be rezoned.

Dr. Holt said the purpose for requesting the rezoning is that he plans to establish an office facility. He said the community would benefit from a value standpoint, as well as a beautification point of view. He said he would also benefit personally since the move would take him out of a high rent area and put him in a facility in which he would have some equity.

Councilman Bratton said Dr. Holt and his wife have demonstrated their interest in the southside area of town by maintaining their home and business in the area. She said it was their choice to stay on Erskine Street and raise their family. She said Dr. Holt and his wife had made a personal contribution to the area, and she would be happy to support the rezoning request.

Mr. Richard Cooper, Owner of 90 Congress Street, said his renter could not be at the meeting today, but had asked him to come and request that the hearing be postponed so Council could hear his case.

Mayor Bissette explained that the ordinance would have to be read on two more occasions and this would provide time for Mr. Cooper's renter to voice their opposition.

Matthew Bacoate, Chairman of the Victoria Health Care Center, said he was very familiar with Dr. Holt and his practice. He said most of Dr. Holt's patients live in and around his proposed new office. He said most of Dr. Holt's patients travel by cab so this would not have an adverse impact on traffic in the area. Mr. Bacoate requested that Council act favorably on Dr. Holt's request.

Upon inquiry of Councilman Price, Ms. Tallerday said Dr. Holt is aware of the parking requirements for the new facility.

Mayor Bissette closed the public hearing at 5:14 P.M.

Vice Mayor Michalove requested that he be excused from voting on this matter due to the company he works for (Mountain Health Services) owning property in the area.

Councilman Price moved to excuse Vice Mayor Michalove from voting on the rezoning issue. This motion was seconded by Councilman Bratton and carried unanimously.

Mayor Bissette said copies of this ordinance were previously distributed to Members of Council and the ordinance would not be read in its entirety.

Councilman Bratton moved for the adoption of Ordinance No. 1729. This motion was seconded by Councilman Price.

On a roll call vote of 5-0, Ordinance No. 1729 passed on first reading.

Mayor Bissette said this ordinance would be scheduled for second reading next and Mr. Cooper or anyone else would be welcome to be heard.

D. **Public Hearing - Ordinance No. 1729, an ordinance amending Ordinance No. 322, an ordinance providing for the zoning of the City of Asheville (Rezoning Property on North Louisiana Avenue - Petitioner - Ms. Jeanne Y. Palyok)**

Mayor Bissette said the Asheville Planning and Zoning Commission on October 5, 1988, reviewed and recommended approval of rezoning Ward 12, Sheet 7, Lot 92, from R-3 Residential District to CH Commercial Highway District.

Mayor Bissette opened the public hearing at 5:15 P.M.

The City Clerk presented the notice to the public setting the time and date of the public hearing and the affidavit of publication.

Carol Alberice of the Planning Department said the proposed rezoning is for a single lot which is currently zoned R-3 Residential District. She said the lot is owned by Jeanne Palyok of Columbia, South Carolina. She said the lot is located on N. Louisiana Avenue south of the railroad tracks. She said there is a vacant, abandoned structure on the lot. She said the lot is bordered on the North by Commercial zoning, the West by Light Industrial, the East by Commercial Highway, and the South by R-3 Residential District.

Ms. Alberice said a 20-foot buffer would be required between the Commercial Highway property line and the R-3 property line. She said six (6) property owners were notified of the hearing and the proposed rezoning, but that no comments have been received.

Mayor Bissette closed the public hearing at 5:24 P.M.

Mayor Bissette said copies of this ordinance were previously distributed to Members of Council and the ordinance would not be read in its entirety.

Councilman Frank moved for the adoption of Ordinance No. 1730. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1730 passed on first reading.

III. OLD BUSINESS:

A. **Resolution No. 88-155 - Resolution repealing free parking with City stickers in the Civic Center Garage.**

Mayor Bissette said this resolution will repeal Resolution No. 78-16 which was adopted on January 26, 1978, and permitted free parking with City stickers in the Civic Center Garage. The repeal would be effective January 1, 1989.

City Manager Doug Bean said Council adopted an ordinance several weeks ago whereby the vehicle tax is paid with the annual tax bills since it is classified by the State as a tax.

Mayor Bissette said copies of this resolution were previously distributed to Members of Council, and the resolution would not be read in its entirety.

Upon motion of Councilman Martin, seconded by Councilman Price, Resolution No. 88-155 was unanimously adopted.

Resolution Book No. 17, Page 248

B. MOTION - AUTHORIZING CITY MANAGER TO DISTRIBUTE $5.00 WORTH OF COUPONS FOR FREE PARKING IN ANY CITY-OWNED/OPERATED GARAGE

City Manager Doug Bean said in doing away with the sticker, he felt the city should do something different to promote use of the parking garages. He said staff has come up with the idea of mailing $5.00 coupons to city residents that could be used in any of the parking decks and not just the Civic Center. He said this would be a pilot program for one year at which time, the program would be evaluated and a recommendation presented to the Council. He said it was felt that if we give free parking and the people get used to using the garages, they will keep using them after the program is stopped. He said we would lose a little bit of revenue in the beginning, but hopefully would pick it back up again. He said the coupons could be used any time, and this would simplify the system and make it easier to administer.

Councilman Frank moved to authorize the City Manager to distribute $5.00 worth of coupons for free parking, which could be used in any city-owned/operated garage at any time. This motion was seconded by Vice Mayor Michalove and carried unanimously.

IV. NEW BUSINESS:

A. Ordinance No. 1731 - An ordinance amending Section 19A-1 and 19A-11 of the Code of Ordinances of the City of Asheville (Grievance Procedure)

Mayor Bissette said this ordinance will amend Sections 19A-1 and Section 19A-11 of the Code of Ordinances of the City of Asheville relative to the Grievance Procedure.

City Manager Doug Bean said Section 19A-1 is being amended to clarify procedures for hearing group grievances because meeting with large groups can make it almost impossible to meet time deadlines of the present ordinance. This amendment would allow a department head and him the flexibility to meet with a group of employees if he/she so desires; however, it would clarify that it is not a requirement of the grievance procedure. Section 19A-11 will clarify who the department head must confer with prior to rendering a decision on a grievance as opposed to who must actually attend the grievance conference. Section 19A-11 also eliminates the time allotted for the City Manager to render his decision provided the conference is held within 10 days after the appeal is received by the City Clerk.

Mayor Bissette said copies of this ordinance were previously distributed to Members of Council, and the ordinance would not be read in its entirety.

Vice Mayor Michalove moved for the adoption of Ordinance No. 1731. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1731 passed on first reading.

Vice Mayor Michalove moved to suspend the rules and proceed with the second reading of the ordinance. This motion was seconded by Councilman Frank and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1731 passed on second reading.

B. Sign permit for freestanding identification sign to be located on Merrimon Avenue for Texaco, Inc.

Mayor Bissette said Signs Unlimited of Charlotte, N. C. has requested approval of a sign permit for a 35' on-premises advertising sign and three (3) canopy signs to be located at I-240 and Merrimon Avenue. This permit requires approval of Council since the sign will be situated closer than 600' from a limited access highway.

Patty Tallerday, Acting Director of Planning, said the 35' freestanding sign will replace the current "TOPS" sign at the service station across from the exit ramp off I-240 at Merrimon Avenue. In addition to the freestanding sign, she said there will also be three (3) canopy signs. She said the Board of Adjustment had granted the variance needed for the third canopy sign since the ordinance only permitted two canopy signs.

Mr. Dennis Taylor of Signs Unlimited said the free-standing sign would be 160 square feet with 30" lettering and 32" logo. Mr. Taylor said the new Texaco Station needed the 35-foot free-standing sign in order to be competitive with other stations in the immediate vicinity.

Councilman Price moved to approve a sign permit for a 35-foot freestanding identification sign and three (3) canopy signs as requested by Signs Unlimited. This motion was seconded by Vice Mayor Michalove and carried unanimously.

C. Sign permit for freestanding identification sign to be located on Patton Avenue for a Mini Storage Company.

Mayor Bissette said the Crawford Sign Company has requested approval of a sign permit for a 38' advertising sign to be located at 600 Patton Avenue near the I-240 and Westwood Place intersection. This permit requires approval of Council since the sign will be situated closer than 600' from a limited access highway.

Patty Tallerday, Acting Director of Planning, said this is a request for an on-premise sign to be located at 600 Patton Avenue, which is a vacant lot proposed for development by George Morosani. She said because this was a request for an electronic intermittent sign, the request had to go before the Board of

Adjustment. She said the Board of Adjustment denied the request at its first hearing, but heard the request again when additional evidence was presented. She said the Board of Adjustment approved the request at the last hearing.

Ms. Tallerday said the exact location of the sign on the lot could not be given at this time, since there was a possibility that Mr. Morosani could acquire some additional property belonging to the N. C. Department of Transportation. She said Mr. Morosani would prefer to locate the sign on this property if it could be acquired from the Department of Transportation.

Mr. David Matney, Attorney for Mr. Morosani, said Mr. Morosani is trying to acquire the property from the Department of Transportation. He said it was his hope that the Council would only consider the issue before them, which is a request for a sign permit because the sign will be situated within 600 feet of a limited access highway. He said his client meets the requirements of the existing ordinance in every other way. He said the sign will flash a one-line message.

Mr. Matney said a question had been raised by staff concerning safety. He said he had been able to locate three (3) articles addressing the issue of safety as it relates to intermittent signs. Basically, he said, he could find no correlation in the increase of traffic accidents and these type signs. He said he had also checked with the Department of Transportation on a 5-mile stretch of highway for a 4-year period. He said the lowest number of accidents was in the mile that had an intermittent sign.

There was a discussion among the Council concerning the proposed development for mini-storage units by Mr. Morosani, the proposed grading and proposed height of the development, and the possibility of considering the request at the same time the group development comes before the Council.

Mr. Morosani said the reason for requesting the sign prior to development is to tell people what is going to be there and to help build up the new business. He said with the sign it would take 3-5 years to build up the business instead of 5-7 years.

Vice Mayor Michalove moved to table the request for the sign permit for two (2) weeks to give Council Members an opportunity to make an on-site visit. This motion was seconded by Councilman Bratton and carried unanimously.

Mr. Matney said if Council Members would give him a call, he would make arrangements for individual tours.

D. Resolution authorizing the City Manager to execute an agreement with the Land of Sky Regional Council for transportation services.

Mayor Bissette said the Land-of-Sky Regional Council operates to provide planning and technical services to local governments in Region B. This resolution will authorize the City Manager to execute a contract with the Land-of-Sky Regional Council for transportation planning assistance for the period October 15, 1988, and ending June 30, 1990.

City Manager Doug Bean said at the present time, there is a vacancy in the Transportation Planner position and transportation planning was one item that could be contracted out. He said this would allow other staff members to concentrate on the more integrated issues that need to be kept in-house. He said the $140,000 is for a 2-year contract, but the City would only pay for the actual amount of time spent on services provided under the contract. He said some of the costs will be reimbursed by the State of North Carolina.

There was a discussion among the Council relative to term of the contract, the termination clause, the specific tasks to be performed, and the language of the contract relative to cost.

The City Manager said he would renegotiate the contract addressing the concerns voiced by the Council and would reschedule the matter for Council's consideration.

V. CONSENT

Mayor Bissette summarized the items on the Consent Agenda. He said copies of each item had previously been distributed to Members of Council and that the resolutions would not be read in their entirety.

A. Resolution No. 88-156 - Resolution authorizing the Mayor and City Clerk of the City of Asheville to execute a utility agreement with the North Carolina Department of Transportation for improvements to Highway N.C. 63, from U.S. 19-23 to the City Limits.

SUMMARY: The N. C. Department of Transportation and the City of Asheville propose to enter into an agreement whereby said Department will include in its construction contract provisions to relocate and adjust certain water and sewer lines along the project. The City of Asheville agrees to reimburse the Department of Transportation for the cost of the work, with reimbursement to be made in a lump sum amount upon completion of Project No. 9.8130211.

Resolution Book No. 17, Page 249

B. Resolution No. 88-157 - Resolution authorizing the Mayor and City Clerk of the City of Asheville to execute a utility agreement with the North Carolina Department of Transportation for improvements to SR 1781, Broadway Avenue from I-240 to US 19-23 in Asheville.

SUMMARY: This is a Municipal Utility Agreement between the North Carolina Department Transportation and the City of Asheville to include in the North Carolina Department of Transportation construction contract provisions to relocate and adjust certain water and sewer lines along the above named highway improvement project.

Resolution Book No. 17, Page 250

C. Scheduling of public hearing relative to an ordinance amending Zoning Ordinance No. 322, Article II, Amendments, Section 30-11-5 for November 15, 1988.

SUMMARY: The Asheville Planning and Zoning Commission on September 21, 1988, discussed the need to amend the Asheville Zoning Ordinance to bring it into compliance with State Statutes regarding vested rights of individuals holding building permits when amendments are made to the Zoning Ordinance. An ordinance is attached for your consideration.

D. Resolution No. 88-158 - Resolution adopting a Sreetscape Plan for the City of Asheville.

SUMMARY: The Streetscape Task Force has researched and considered the streetscape and pedestrian environment of downtown and a working paper of the plan was presented to Council as feasible and appropriate. Several studies of the downtown have indicated that improving the appearance of the downtown is desperately needed and will help to stimulate economic development in the downtown. The City Council reviewed the plan on October 11, 1988, and approved the plan in concept. This resolution will formalize that action.

Resolution Book N. 17, Page 251

Upon motion of Vice Mayor Michalove, seconded by Councilman Bratton, the Consent Agenda was unanimously adopted.

VI. OTHER BUSINESS:

CLAIMS - JUDY BLANKENSHIP (WATER), JEFF BLAYLOCK (SANITATION), PATSY YOUNG (TRANSIT AUTHORITY), RUDY URBANEC (SEWER), JOHN GUILLEBEAUX (SANITATION), AND CARTER MITCHELL (PARKING SERVICES)

The City Manager presented claims received from Judy Blankenship, Jeff Blaylock, Patsy Young, Rudy Urbanec, John Guillebeaux, and Carter Mitchell.

Mayor Bissette referred the claims to the City Attorney for investigation and recommendation.

ADJOURNMENT:

Upon motion of Councilman Frank, seconded by Councilman Bratton, the meeting adjourned at 6:45 P.M.

MAYOR

CITY CLERK

Tuesday - November 8, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, and Russell Martin; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Walter Boland

INVOCATION

The invocation was given by Councilman Bratton.

APPROVAL OF MINUTES - NOVEMBER 1, 1988

Mayor Bissette announced the approval of the minutes of November 1, 1988 meeting as submitted.

I. PROCLAMATIONS:

II. PUBLIC HEARINGS:

III. OLD BUSINESS:

A. Ordinance No. 1729 - Second reading of an ordinance rezoning property at 92 Congress Street - Petitioner - Dr. John Holt.

Mayor Bissette said the Asheville Planning and Zoning Commission on October 5, 1988, reviewed and recommended approval of rezoning Ward 4, Sheet 11, Lots 34, 34-1/4, and 278, from R-3 Residential District to O-I Office-Institutional District. (Property is located at 92 Congress Street, Livingston Street and Pine Grove Avenue).

Mayor Bissette said this ordinance was previously read on first reading and will not be read in its entirety.

On a roll call vote of 6-0, Ordinance No. 1729 passed on second reading.

B. Ordinance No. 1730 - Second reading of an ordinance rezoning property on North Louisiana Avenue - Petitioner - Ms. Jeanne Y. Palyok.

Mayor Bissette said the Asheville Planning and Zoning Commission on October 5, 1988, reviewed and

recommended approval of rezoning Ward 12, Sheet 7, Lot 92, from R-3 Residential District to CH Commercial Highway District.

Mayor Bissette said this ordinance was previously read on first reading and will not be read in its entirety.

On a roll call vote of 6-0, Ordinance No. 1730 passed on second reading.

C. Ordinance No. 1731 - Third reading of an ordinance amending Section 19A-1 and 19A-11 of the Code of Ordinances (Grievance Procedure) of the City of Asheville.

Mayor Bissette said Section 19A-1 is being amended to clarify procedures for hearing group grievances because meeting with large groups can make it almost impossible to meet time deadlines of the present ordinance. This amendment would allow a department head the flexibility to meet with a group of employees if he/she so desires; however, it would clarify that it is not a requirement of the grievance procedure. Section 19A-11 will clarify who the department head must confer with prior to rendering a decision on a grievance as opposed to who must actually attend the grievance conference. Section 19A-11 also eliminates the time allotted for the City Manager to render his decision provided the conference is held within 10 days after the appeal is received by the City Clerk.

Mayor Bissette said this ordinance was previously read on first and second readings and will not be reread in its entirety.

At the request of the City Attorney, Councilman Price moved to amend Ordinance No. 1731 by deleting the last sentence of the first paragraph "Settlement of a grievance filed by one employee will be binding on all other employees who are affected in the same manner by the subject matter of the grievance." This motion was seconded by Vice-Mayor Michalove and carried unanimously.

David Anders, with the Asheville Fire Department, spoke in opposition to the ordinance amending the current grievance procedure. He said in his opinion the current ordinance is working satisfactorily. He said he also disagreed with the reasons for changing the ordinance just because it would take too much time to solve multiple grievances. He suggested that the proposed ordinance be voided or postponed and presented to a team for review and recommendation.

After discussion, Councilman Price suggested that the third reading of the ordinance be postponed until next week giving the City Attorney and the Personnel Director another opportunity to review the ordinance.

D. Ordinance No. 1727 - Third reading of an ordinance creating Article 6A of the Code of Ordinances of the City of Asheville providing standards for design review affecting property in and near downtown Asheville.

Mayor Bissette said Downtown Asheville is recognized as a special place to be protected as a community resource because it represents an important part of Asheville's heritage and because its unusual character creates an identity for Asheville. Downtown Asheville is also the major center of business and cultural activity. This ordinance will establish boundaries of the Downtown Design Review Area and will authorize the Planning and Zoning Commission to establish guidelines for new construction and rehabilitation in the Downtown Design Review Area. All construction work requiring a building permit, sign permit, or zoning review or a variance must be submitted to the Planning and Zoning Commission for review prior to the issuance of the permit. Routine maintenance will not be subject to review, but procedures for cleaning and painting buildings must be reviewed.

Vice-Mayor Michalove commented that if the projects meet all guidelines that it should not have to go through the Planning and Zoning Commission process.

Mayor Bissette said the ordinance was previously read on first and second readings and would not be reread in its entirety.

On a roll call vote of 6-0, Ordinance No. 1727 passed on third and final reading.

Ordinance Book No. 11 Page No. 381-384

IV. NEW BUSINESS:

A. Resolution No. 88-159 - Resolution relative to exchange of real property with Joseph C. Reynolds and Mountain Investment Company, Inc. for Beaverdam Water Reservoir Site.

Mayor Bissette said pursuant to the need to procure a new reservoir site in the Beaverdam Valley area, an Exchange Agreement has been initially agreed upon by and between the Buncombe County Water Authority

and Joseph C. Reynolds and Mountain Investment Company, Inc. for the exchange of certain properties off Pinecroft Road. The City would convey the current reservoir site, which is inactive, for a new site in the Reynolds subdivision for the placement of a new reservoir system.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Martin, seconded by Councilman Frank, Resolution No.88-159 was unanimously adopted.

Resolution Book No. 17 Page No. 252

B. **Ordinance No. 1732 - Budget ordinance amendment to appropriate funds received from land sales in the R-48 Urban Renewal area for property management costs.**

Mayor Bissette said this budget amendment is to appropriate funds received from land sales in the R-48 Urban Renewal area for property management costs. There is an immediate need to correct a drainage problem in Lyman Hollow.

Vice-Mayor Michalove moved for the adoption of Ordinance No. 1732. This motion was seconded by Councilman Frank.

On a roll call vote of 6-0, Ordinance No. 1732 passed on first and final reading.

Ordinance Book No. 11 Page No. 392

C. **Ordinance No. 1733 - Budget ordinance amendment to appropriate funds from Arts Grants for after school program at Burton, Shiloh, Stephens-Lee, Reid and Montford Centers.**

Mayor Bissette said this budget amendment in the amount of $3,000 is from an Arts Grant for after school program at Burton, Shiloh, Stephens-Lee, Reid and Montford Centers.

Vice-Mayor Michalove moved for the adoption of Ordinance No. 1733. This motion was seconded by Councilman Bratton.

On a roll call vote of 6-0, Ordinance No. 1733 passed on first and final reading.

Ordinance Book No. 11 Page No. 393

D. **Ordinance No. 1734 - Budget ordinance amendment to appropriate funds provided by grant from N. C. Department of Community Development, Division of Aging for renovations to Senior Opportunity Center restroom to bring them up to handicapped code.**

Mayor Bissette said this budget ordinance amendment in the amount of $10,000 is for a grant from N. C. Dept. of Community Development, Division of Aging, for renovations to Senior Opportunity Center restroom to bring them up to handicapped code.

Councilman Price moved for the adoption of Ordinance No. 1734. This motion was seconded by Councilman Bratton.

On a roll call vote of 6-0, Ordinance No. 1734 passed on first and final reading.

Ordinance Book No. 11 Page No. 394

E. **Ordinance No. 1735 - Budget ordinance amendment to appropriate funds by grant from N. C. Department of Community Development, Division of Aging for outreach program to area senior clubs and housing projects.**

Mayor Bissette said this budget amendment in the amount of $15,000 is from a grant from N. C. Department of Community Development, Division of Aging, for outreach program to area senior clubs and housing projects.

Councilman Price moved for the adoption of Ordinance No. 1735. This motion was seconded by Councilman Martin.

On a roll call vote of 6-0, Ordinance No. 1735 passed on first and final reading.

Ordinance Book No. 11 Page No. 395

V. CONSENT:

A. **Resolution No. 88-160 - Resolution authorizing the Purchasing Director to sell surplus motor vehicle and other surplus property at public auction.**

SUMMARY: The Motor Transport Superintendent has declared twenty-two cars, nine pickup trucks, two dump trucks, one 2 ton truck, one Ford F800 truck and one tractor, as surplus. Various City Departments have declared assorted office furniture, equipment and other miscellaneous items as surplus.

Resolution Book No. 17 Page No. 253

B. Motion approving the sale of Disposal Parcel 94 in the East End/Valley Street area.

SUMMARY: The Housing Authority has tentatively accepted a bid for Disposal Parcel 94 in the East End/Valley Street area for residential use for a bid of $200.00 from Myrtle D. Lee. Disposal Parcel 94 is a fragment left over after completion of Max Street improvements. It is only 2,178 sq. ft. and therefore not buildable. Mrs. Lee is the owner of adjacent property at 6 Circle Street and she plans to use the lot for additional yard space.

C. Resolution No. 88-161 - Resolution authorizing the City Manager to execute an agreement with Wheeler construction Company, Inc. for the construction of the Thompson Street Sanitary Sewer Relocation Project.

SUMMARY: This project involves the installation of approximately one thousand one hundred eighty linear feet of twenty-four inch sanitary sewer on Thompson Street. Bids were opened on this project on October 18, 1988 and the lowest responsible bidder was Wheeler Construction Company, Inc., in the amount of $83,955.00 It is recommended that the City Manager is authorized to execute an agreement with Wheeler Construction Company, Inc., for this project.

Resolution Book No. 17 Page No. 254

D. Resolution No. 88-162 - Resolution authorizing the City Manager of the City of Asheville to sign contract for grant funds from the North Carolina Arts Council.

SUMMARY: The North Carolina Arts Council and the Community Arts Council of Western North Carolina have funds available through the Grassroots Arts Programs for arts programming. The Parks, Recreation, and Public Facilities Department would like to utilize these funds to provide an after-school arts program at Burton Street, Shiloh, Stephens-Lee, Reid, and Montford Recreation Centers.

Resolution Book No. 17 Page No. 255

Upon motion of Councilman Frank, seconded by Vice-Mayor Michalove the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

ANNOUNCEMENT - COUNCILMAN WALTER BOLAND - RESIGNATION

Mayor Bissette presented the following letter to members of Council:

October 26, 1988

Mr. Louis Bissette, Mayor
McGuire, Wood and Bissette, PA
P. O. Box 3180
Asheville, North Carolina 28802

Dear Louis:

I hereby submit my resignation from the Asheville City Council.

As you know I do this with considerable regret, but given the current circumstances in my life it seems the wise thing to do.

With warm personal regards.

Sincerely,

/s/ Walter R. Boland
Walter R. Boland

Mayor Bissette said Council will begin the process for replacement for Councilman Boland. He said the City Attorney would be recommending a procedure to follow but the main requirement is that the replacement must be from the same political party which would be a Democrat.

Steve Welborn said the process for the replacement should be fair and just. He said he felt this would be an excellent opportunity for Council to show a good faith effort to appoint a black to City Council.

ANNOUNCEMENT BY MAYOR - PACK PLAZA PROJECT CLOSING

Mayor Bissette announced that after many hours of negotiations the Pack Plaza Project was finally closed. He thanked the staff for their many hours of dedication in getting this project closed.

Members of Council also thanked Mayor Bissette for his efforts in getting the Project closed.

POLITICAL SIGNS - REMOVAL

Upon inquiry of Councilman Price, the City Manager said efforts would be taken to have all political signs removed as stipulated in the ordinance.

RESOLUTION NO. 88-163 - RESOLUTION APPOINTING MEMBER TO THE ALCOHOLIC BEVERAGE CONTROL BOARD

Councilman Frank moved for the adoption of a resolution appointing Helen Mitchell to the Alcoholic Beverage Control Board for a three (3) year term, term expiring November 13, 1991, or until her successor is duly appointed and qualified. This motion was seconded by Councilman Price and carried unanimously.

Resolution Book No. 17 Page No. 256

CLAIMS - GEORGE METHVIN (STREETS) - KIM JONES (WATER) - ARNOLD JONES (SEWER) - LENA WATERS (SEWER) - EMILY MOSS (WATER)

The City Manager presented claims received from George Methvin, Kim Jones, Arnold Jones, Lena Waters, and Emily Moss.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP - LOTTERY SALES

Ralph Bishop again spoke to members of Council about the lottery sales in the City of Asheville.

ADJOURNMENT:

Mayor Bissette adjourned the meeting at 5:30 p.m.

MAYOR

CITY CLERK

Tuesday - November 15, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, and Russell Martin; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Councilman Frank.

APPROVAL OF MINUTES - NOVEMBER 8, 1988 MEETING

Mayor Bissette announced the approval of the minutes of the November 8, 1988 meeting as submitted.

ANNOUNCEMENT - ARTHUR ROBERT "BOB" YORK - COUNCILMAN

Mayor Bissette said for the past two weeks members of Council have been discussing a replacement for Walter Boland as a member of the Asheville City Council. He said a number of names had been submitted to Council as a replacement for Walter Boland. He said all the candidates would have made an excellent replacement. He said after thoroughly discussing the matter it is felt that Council has now chose an individual to replace Walter Boland.

Vice-Mayor Michalove nominated Arthur Robert "Bob" York as a replacement for Walter Boland on the Asheville City Council.

Councilman Frank moved to accept Arthur Robert "Bob" York as a replacement for Walter Boland on the Asheville City Council by acclamation. This motion was seconded by Councilman Price and carried unanimously.

I. PROCLAMATIONS:

A. Resolution No. 88-164 - Resolution in memory of Charles A. Sammons

Mayor Bissette read a resolution in memory of Charles A. Sammons, owner of The Grove Park Inn and Country Club of Asheville.

Upon motion of Councilman Martin, seconded by Vice-Mayor Michalove, Resolution No. 88-164 was unanimously adopted.

B. Proclamation - Light Up Your Holidays - November 23 - December 31, 1988

Mayor Bissette read the proclamation and presented a copy to Curt Crowhurst, Festival Coordinator.

Curt Crowhurst said the Light Up Your Holidays Premier would be November 26, 1988 at 6:00 p.m. He said there would be over 450 events taking place over the holidays. He outlined the major events.

II. PUBLIC HEARINGS:

A. Public hearing relative to an ordinance amending Zoning Ordinance No. 322, Article II, Amendments, Section 30-11-5.

Ordinance No. 1736 - An ordinance amending Zoning Ordinance No. 322, Article II, Amendments, Section 30-11-5

Mayor Bissette said the Asheville Planning and Zoning Commission on September 21, 1988, discussed the need to amend the Asheville Zoning Ordinance to bring it into compliance with State Statutes regarding vested rights of individuals holding building permits when amendments are made to the Zoning Ordinance.

Mayor Bissette opened the public hearing at 4:40 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

The City Attorney said the North Carolina General Assembly amended the General Statutes to provide for vested rights to individuals holding valid building permits. He said this amendment to the Zoning Ordinance is necessary with regard to that statutory change. He said amendments, modifications, supplements, repeal or other changes in zoning regulations and restrictions and zone boundaries shall not be applicable or enforceable without consent of the owner with regard to lots for which building permits have been issued prior to the enactment of the ordinance making the change or changes so long as the permits remain valid, unexpired and unrevoked.

Mayor Bissette closed the public hearing at 4:42 p.m.

Mayor Bissette said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Price moved for the adoption of Ordinance No. 1736. This motion was seconded by Councilman Martin.

On a roll call vote of 6-0, Ordinance No. 1736 passed on first reading.

Vice-Mayor Michalove moved to suspend the rules and proceed to the second reading of Ordinance No. 1736. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1736 passed on second reading.

Vice-Mayor Michalove moved to suspend the rules and proceed to the third reading of Ordinance No. 1736. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1736 passed on third and final reading.

Ordinance Book No. 11 Page No. 396

III. OLD BUSINESS:

A. **Ordinance No. 1729 - Third reading of an ordinance rezoning property at 92 Congress Street - Petitioner - Dr. John Holt.**

Mayor Bissette said the Asheville Planning and Zoning Commission on October 5, 1988, reviewed and recommended approval of rezoning Ward 4, Sheet 11, Lots 34, 34-1/4, and 278, from R-3 Residential District to O-I Office-Institutional District. (Property is located at 92 Congress Street, Livingston Street and Pine Grove Avenue).

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

On a roll call vote of 6-0, Ordinance No. 1729 passed on third and final reading.

Ordinance Book No. 11 Page No. 387

B. Ordinance No. 1730 - Third reading of an ordinance rezoning property on North Louisiana Avenue - Petitioner - Ms. Jeanne Y. Palyok.

Mayor Bissette said the Asheville Planning and Zoning Commission on October 5, 1988, reviewed and recommended approval of rezoning Ward 12, Sheet 7, Lot 92, from R-3 Residential District to CH Commercial Highway District.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

On a roll call vote of 6-0, Ordinance No. 1730 passed on third and final reading.

Ordinance Book No. 11 Page No. 388

C. Ordinance No. 1731 - Third reading of an ordinance amending Section 19A-1 and 19A-11 of the Code of Ordinances (Grievance Procedure) of the City of Asheville.

Mayor Bissette said Section 19A-1 is being amended to clarify procedures for hearing group grievances because meeting with large groups can make it almost impossible to meet time deadlines of the present ordinance. This amendment would allow a department head the flexibility to meet with a group of employees if he/she so desires; however, it would clarify that it is not a requirement of the grievance procedure. Section 19A-11 will clarify who the department head must confer with prior to rendering a decision on a grievance as opposed to who must actually attend the grievance conference. Section 19A-11 also eliminates the time allotted for the City Manager to render his decision provided the conference is held within 10 days after the appeal is received by the City Clerk.

Mayor Bissette said the third reading of this ordinance was postponed giving the City Attorney and the Personnel Director an opportunity to look into several questions raised during the second reading. He said the City Attorney has requested that the third reading be postponed until November 29, 1988 since the Personnel Director has been out of town.

D. Resolution to close a portion of Cliff Street in the City of Asheville, North Carolina.

Mayor Bissette said a petition has been filed by Westgate Shopping Center of Asheville, Inc. requesting that a portion of Cliff Street which has

never been paved or otherwise utilized be permanently closed to the public use. This closing is in connection with the Westgate Shopping Center Expansion Project - Phase II. A public hearing was held on September 27, 1988.

Mayor Bissette said action on this resolution would be postponed until November 29, 1988.

E. **Sign permit for freestanding identification sign to be located on Patton Avenue for a Mini Storage Company.**

Mayor Bissette said Crawford Sign Company has requested approval of a sign permit for a 38' advertising sign to be located at I-240 and Westwood Place. This permit requires approval of Council since the sign will be situated closer than 600' from a limited access highway.

David Matney, attorney for George Morasoni, owner of the Mini Storage Company, showed members of Council a map of where the sign would be located. He said the sign would be approximately 12' above finish grade level of I-240 and about 2' to 3' above the grading line of the project.

Mr. Morasoni showed members of Council pictures of signs in the vicinity of the proposed Mini Storage Company.

Mr. Matney presented members of Council with several alternatives that his client could accept. He said their first choice of approval would be the sign 38' in height which would allow the use of a message board; the second would be 25' in height with the use of a message board; or a sign 38' in height with a time and temperature message; or a sign 25' in height with a time and temperature message; or a sign 25' in height with a non-electric message board with changeable letters.

Mr. Matney said the sign would be less than 250 square feet per side.

After discussion, Councilman Martin moved to approve the sign permit for the Mini Storage Company contingent upon the sign not exceeding 25' in height and not to exceed 438 square feet in size and that the message board be a time and temperature sign. This motion was seconded by Vice-Mayor Michalove and carried unanimously.

F. Resolution No. 88-165 - Resolution authorizing the City Manager to execute a technical services contract with the Land-of-Sky Regional Council.

Mayor Bissette said the Land-of-Sky Regional Council operates to provide planning and technical services to local governments in Region B. This resolution will authorize the City Manager to execute a contract with the Land-of-Sky Regional Council for transportation planning assistance for the period October 15, 1988, and ending June 30, 1990.

Upon motion of Councilman Frank, seconded by Councilman Martin, Resolution No. 88-165 was unanimously adopted.

Resolution Book No. 17 Page No. 258

IV. NEW BUSINESS:

A. Ordinance No. 1737 - Ordinance amending Chapter 25 (Streets and Sidewalks) of the Code of Ordinance of the City of Asheville (Parade Permits)

Mayor Bissette said this ordinance will amend Section 25-16 (C) (1-5) by deleting same and inserting new language. The new language would require that a written application for a permit is to be filed not less than 72 hours in advance of such parade. It would also require that the applicant for a permit pay an administrative filing fee, to be set by the Council and included in the City's Fees and Charges Manual.

Councilman Frank moved for the adoption of Ordinance No. 1737. This motion was seconded by Vice-Mayor Michalove.

On a roll call vote of 6-0, Ordinance No. 1737 passed on first reading.

Vice-Mayor Michalove moved to suspend the rules and proceed to the second reading of the ordinance. This motion was seconded by Councilman Martin and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1737 passed on second reading.

Vice-Mayor Michalove moved to suspend the rules and proceed to the third and final reading of the ordinance. This motion died for the lack of a second.

B. Amendment to Sign Package for River Ridge Shopping Center.

Mayor Bissette said the developer of River Ridge Market Place has requested that the sign package be amended to add one free-standing identification sign at a new entrance on U. S. 74 across from Oakley Plaza.

Carroll Hughes, representing River Ridge Shopping Center requested Council's approval on an additional free-standing identification sign for River Ridge Market Place for a lower entrance that was not originally anticipated. He showed members of Council a drawing of the proposed sign.

After discussion, Councilman Price moved to approve the amended sign package for the River Ridge Shopping Center for one additional free-standing identification sign for the lower entrance to River Ridge Market Place. This motion was seconded by Vice-Mayor Michalove and carried unanimously.

V. CONSENT:

A. Resolution No. 88-165 - Resolution appointing members to the Drug Task Force.

Mayor Bissette said Resolution No. 88-154 established the Drug Task Force. This resolution will appoint the following members to the Task Force:

Judge Earl Fowler, Chairman; Peter Banyai, Vice-Chairman; George Morrison, Mike Begley, Bud Garland, Kevin Payne, Bob Fisher, Carl Johnson, Nilous Avery, III, Doug Jones, Max Haner, David Jones, Peggy Shook, William Young, Ralph Hammond, Sherry Davidson, Minnie Jones, Ellen Clark-Sayer, Peter Menedis

B. Motion to cancel City Council Meeting on November 22, 1988.

Mayor Bissette said this meeting is being cancelled due to Thanksgiving Holidays.

Upon motion of Councilman Frank, seconded by Councilman Price, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

EASEMENT FOR CAROLINA POWER AND LIGHT COMPANY FOR PACK PLACE

Vice-Mayor Michalove moved to authorize the Mayor to sign easement agreements with Carolina Power and Light Company for electrical service in the alley in the Pack Place project. This motion was seconded by Councilman Martin and carried unanimously.

CITY MANAGER AUTHORIZED TO SIGN INDEMNITY AGREEMENT - PACK PLAZA ASSOCIATES LIMITED PARTNERSHIP - LIGHT UP YOUR HOLIDAYS FESTIVAL

Vice-Mayor Michalove moved to authorize the City Manager to execute an indemnity agreement with Pack Plaza Associates Limited Partnership for the use of the Commerce Building for a limited portion of the program for the Light Up Your Holidays Festival on Saturday, December 3, 1988 from 4:00 p.m. until 7:00 p.m. This motion was seconded by Councilman Frank and carried unanimously.

CLAIMS - FREDDIE MITCHELL (STREETS) - KENNY TREECE (STREETS) - STANLEY DILLS (WATER) - CHERYL FOWLER (WATER) - KEITH COCHRAN (SANITATION) - CHARLOTTE CLARK (SEWER) - HAROLD TALBERT (STREETS) - JUDY HOFFMAN (WATER) - GENE MITCHELL (PARKS)

The City Manager presented claims received from Freddie Mitchell, Kenny Treece, Stanley Dills, Cheryl Fowler, Keith Cochran, Charlotte Clark, Harold Talbert, Judy Hoffman, and Gene Mitchell.

Mayor Bissette referred the claims to the City Attorney for investigation and recommendation.

ADJOURNMENT

Mayor Bissette adjourned the meeting at 5:50 p.m.

MAYOR

CITY CLERK

Tuesday - November 29, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, and Russell Martin; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Councilman Martin.

APPROVAL OF MINUTES - NOVEMBER 15, 1988 MEETING

Mayor Bissette announced the approval of the minutes of the November 15, 1988 meeting as submitted.

EMPLOYEES OF WATER AND SEWER DEPARTMENT - 1988 STATE CHAMPIONS IN TAPPING

The City Manager recognized employees of the Water and Sewer Department for becoming the 1988 State Champions in Tapping for the second year. He said the team beat the state and national record with a time of 1 minute 54.32 seconds. He said the team will be competing in the Nationals in Los Angeles in June, 1989.

PARKING VALIDATION STICKERS FOR LIBRARY PATRONS

The City Manager said due to a number of calls relative to repealing free parking in the Civic Center Parking Garage for residents of the City using the library facilities an interim solution has been decided upon. He said the City will issue to the Library validation stickers similar to the ones used by downtown merchants. He said the Library would have control of the parking stickers and this program would be monitored for several months to determine the usage of the Library and the cost involved and a determination can be made by Council whether to continue the program.

REGRETS EXTENDED TO FAMILY OF WARREN G. CABANISS

Mayor Bissette, on behalf of the Council, extended regrets to the family of Warren G. Cabaniss, former member of the Alcohol Beverage Control Board, upon his recent passing.

I. PROCLAMATIONS:

II. PUBLIC HEARINGS:

III. OLD BUSINESS:

A. **Resolution to close a portion of Cliff Street in the City of Asheville, North Carolina.**

SUMMARY: A petition has been filed by Westgate Shopping Center of Asheville, Inc. requesting that a portion of Cliff Street which has never been paved or otherwise utilized be permanently closed to the public use. This closing is in connection with the Westgate Shopping Center Expansion Project - Phase II. A public hearing was held on September 27, 1988.

Mayor Bissette announced that this matter would be postponed until December 20, 1988 meeting.

B. **Third reading of Ordinance No. 1731 - amending Section 19A-1 and 19A-11 of the Code of Ordinances (Grievance Procedure) of the City of Asheville.**

SUMMARY: Section 19A-1 is being amended to clarify procedures for hearing group grievances because meeting with large groups can make it almost impossible to meet time deadlines of the present ordinance. This amendment would allow a department head the flexibility to meet with a group of employees if he/she so desires; however, it would clarify that it is not a requirement of the grievance procedure. Section 19A-11 will clarify who the department head must confer with prior to rendering a decision on a grievance as opposed to who must actually attend the grievance conference. Section 19A-11 also eliminates the time allotted for the City Manager to render his decision provided the conference is held within 10 days after the appeal is received by the City Clerk.

Mayor Bissette announced that this matter would be postponed until December 20, 1988 meeting.

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duplicate page

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Mayor Bissette announced that this matter would be postponed until December 20, 1988 meeting.

C. Ordinance No. 1737 - Third reading of an ordinance amending Chapter 25 (Streets and Sidewalks) of the Code of Ordinance of the City of Asheville (Parade Permits)

Mayor Bissette said this ordinance will amend Section 25-16 (C) (1-5) by deleting same and inserting new language. The new language would require that a written application for a permit is to be filed not less than 72 hours in advance of such parade. It would also require that the applicant for a permit pay an administrative filing fee, to be set by the Council and included in the City's Fees and Charges Manual.

Mayor Bissette said this ordinance was previously read on first and second reading and would not be reread in its entirety.

On a roll call vote of 6-0, Ordinance No. 1737 passed on third and final reading.

Ordinance Book No. 11 Page No. 397-398

IV. NEW BUSINESS:

A. Resolution No. 88-167 - Resolution providing for the issuance of $8,400,000 Public Improvement Bonds, Series 1988.

Mayor Bissette said this resolution will authorize the issuance of $5.4 million in Street and Sidewalk bonds and $3.0 million in Pack Place bonds.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Martin, seconded by Councilman Frank, Resolution No. 88-167 was unanimously adopted.

Resolution Book No. 17 Page No. 260 - 293

B. Resolution authorizing the City Manager to execute an agreement with Land-of-Sky Regional Council to provide technical support concerning the proposed Stormwater Management Program.

SUMMARY: Proposed agreement between the City of Asheville and the Land of Sky Regional Council to provide technical support to City staff in coordinating with the Citizen Advisory Committee and Public meetings concerning the proposed Stormwater Management Program.

Mayor Bissette said this resolution would be postponed until the December 20, 1988 meeting.

C. Ordinance No. 1738 - Ordinance amending Ordinance Nos. 1650 and 1674 providing for a Disability Review Board for members of the Asheville Policemen's Pension and Disability Fund.

Mayor Bissette said the proposed amendment clarifies the entitlement to benefits for former firefighters.

The City Attorney said it has become necessary to clarify the eligibility for benefits to former firefighters. He said the following sentence would be added to the ordinance: "No benefits shall be paid for any period of time prior to January 1, 1987, for former members of the Asheville Policemen's Pension and Disability Fund and for any period of time prior to January 1, 1988, for former members of the Asheville Firemen's Pension and Disability Fund."

Vice-Mayor Michalove moved for the adoption of Ordinance No. 1738. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1738 passed on first reading.

Vice-Mayor Michalove moved to suspend the rules and proceed to the second reading of Ordinance No. 1738. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1738 passed on second reading.

Vice-Mayor Michalove moved to suspend the rules and proceed to the third reading of Ordinance No. 1738. This motion was seconded by Councilman Martin and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1738 passed on third and final reading.

Ordinance Book No. 11 Page No. 399-400

D. Ordinance No. 1739 - Ordinance directing the Director of Building Inspections to demolish and remove the dwelling known as 94 Houston Street, Asheville, North Carolina.

Mayor Bissette said this ordinance will direct the demolition and removal of the remains of the dwelling at 94 Houston Street, due to an imminent threat to life, safety, and health.

The City Attorney said this ordinance is being adopted due to an emergency situation and statements have been received from the Fire, Police, Building Inspections, and Health Departments outlining the status of 94 Houston Street.

Mayor Bissette and Councilman Price said there are two (2) dwellings on Starnes Avenue that should fall under the emergency ordinance and should be demolished. They indicated a desire to move faster on dwellings of this nature in order to eliminate such problems.

Vice-Mayor Michalove said he was under the impression that there is a procedure to follow to move ahead quickly on dwellings that are a threat to life, safety, and health without waiting on the process of adopting an ordinance.

Councilman Frank moved for the adoption of Ordinance No. 1739. This motion was seconded by Vice-Mayor Michalove.

On a roll call vote of 6-0, Ordinance No. 1739 passed on first reading.

Vice-Mayor Michalove moved to suspend the rules and proceed to the second reading of Ordinance No. 1739. This motion was seconded by Councilman Martin.

On a roll call vote of 6-0, Ordinance No. 1739 passed on second reading.

Vice-Mayor Michalove moved to suspend the rules and proceed to the third reading of Ordinance No. 1739. This motion was seconded by Councilman Martin.

On a roll call vote of 6-0, Ordinance No. 1739 passed on third reading.

Ordinance Book No. 11 Page No. 401

E. **Resolution authorizing the transfer of a cable television franchise from American Cable TV Investors to Daniels & Associates, Inc., and/or its affiliates which are controlled by United Artists Communications, Inc.**

Mayor Bissette said this resolution will approve and consent to the transfer and assignment of the franchise to Daniels & Associates, Inc. and/or its affiliates which are controlled by United Artists Communications, Inc.

Mayor Bissette indicated that the City Manager and the City Attorney needs additional information prior to Council taking action on the resolution.

Joe Haight, General Manager of Asheville Cablevision, said this action is a continuation of a request sent to members of Council in June, 1988. He said United Artists Communication, Inc. purchased Daniels and Associates, Inc., a partnership which owned Asheville Cablevision. He said United Artists Communication, Inc. is buying out all the limited partnerships, closing out American Cable TV Investors, which is also a part of Daniels and Associates. He said there would be no effect on the local franchise.

The City Manager said Council would take action on this resolution in the next few weeks.

V. CONSENT:

A. **Resolution No. 88-168 - Resolution authorizing condemnation of Parcel 2 of property in the Thompson Street Bridge Replacement Project.**

SUMMARY: This resolution authorizes the Asheville Housing Authority to condemn Parcel No. 2, owned by Midwood Investment Company, in order to acquire the parcel for right-of-way required for the replacement of the Thompson Street Bridge. Numerous attempts have been made to locate and negotiate with Midwood Investment Company, (and it has been found that the company no longer legally exists).

Resolution Book No. 17 Page No. 294

B. **Resolution No. 88-169 - Resolution accepting Rhododendron Place as a City system street.**

SUMMARY: Property owners along Rhododendron Place, in the newly annexed area of Haw Creek, have petitioned the City to accept Rhododendron Place as a City system street. The street qualifies as a City System street

Resolution Book No. 17 Page No. 295

C. **Bids for a Communication Center for Fire Department consisting of two (2) status/control panels and ten (10) station transponders.**

SUMMARY: Recommendation to award bid for a communication center to the low bidder, Communication Service, Inc., Asheville, North Carolina.

D. Resolution No. 88-170 - Resolution appointing members to the Asheville Fair Housing Commission.

SUMMARY: The term of office of Dwight B. Mullen as a member of the Asheville Fair Housing Commission expires December 31, 1988. This resolution will reappoint Dwight B. Mullen for a three (3) year term, term to expire December 31, 1991 or until his successor has been duly appointed and qualified.

Resolution Book No. 17 Page No. 296

E. Resolution No. 88-171 - Resolution appointing members to the Board of Directors of the Victoria of Asheville, Inc.

SUMMARY: The terms of Matthew Bacoate, Jr., Darlene Wilkins, Dr. John P. Holt, Dorothy C. Maitland, and John F. Shuford have expired as a members of the Board of Directors of the Victoria of Asheville, Inc. It is necessary for Council to appoint someone to serve on the Victoria of Asheville Board of Directors. This resolution will reappoint Matthew Bacoate, Jr., Darlene Wilkins, Dr. John P. Holt, Dorothy C. Maitland, and John F. Shuford, terms expiring November 29, 1991 or until their successors have been duly appointed and qualified.

Resolution Book No. 17 Page No. 297

F. Resolution No. 88-172 - Resolution appointing members to the Asheville-Buncombe Community Relations Council.

SUMMARY: The terms of the Chief of Police and Dwight B. Mullen ave expired as a members of the Asheville-Buncombe Community Relations Council. It is necessary for Council to appoint someone to serve on the Asheville-Buncombe Community Relations Council. This resolution will reappoint the Chief of Police and Dwight B. Mullen to a 3-year term, terms December 31, 1991, or until their successors have been duly appointed and qualified.

Resolution Book No. 17 Page No. 298

G. Resolution No. 88-173 - Resolution appointing member to the Asheville-Buncombe Water Authority.

SUMMARY: The term of the Richard A. Wood, Jr. has expired as a member of the Asheville-Buncombe Water Authority. It is necessary for Council to appoint someone to serve on the Asheville-Buncombe Water Authority. This resolution will reappoint the Richard A. Wood, Jr., term expiring December 31, 1991, or until his successor has been duly appointed and qualified.

Resolution Book No. 17 Page No. 299

H. Resolution No. 88-174 - Resolution appointing member to the Asheville Transit Authority.

SUMMARY: The term of Tom Tomlin has expired as a member of the Asheville Transit Authority. It is necessary for Council to appoint someone to serve on the Asheville Transit Authority. This resolution will reappoint the Tom Tomlin, term expiring December 31, 1992, or until his successor has been duly appointed and qualified.

Resolution Book No. 17 Page No. 300

I. Resolution No. 88-175 - Resolution No. 88-176 - Resolution appointing members to the Asheville Area Civic Center Commission.

SUMMARY: Dianna Jackson and Joe Webster have resigned as members of the Asheville Area Civic Center Commission. It is necessary for Council to appoint two individuals to serve on the Asheville Area Civic Center Commission. This resolution will appoint Mrs. H. C. McQueen to serve the unexpired term of Joe Webster, term expiring June 30, 1989, or until her successor has been duly appointed and qualified and Debi Decker to serve the unexpired term of Dianna Jackson, term expiring June 30, 1991, or until her successor has been duly appointed and qualified.

Resolution Book No. 17 Page No. 301
Resolution Book No. 17 Page No. 302

J. Scheduling of public hearing relative to the implementation of zoning in the Montford area in accordance with the "Head of Montford Redevelopment Plan" for December 13, 1988.

SUMMARY: The Asheville Planning and Zoning Commission on November 2, 1988, considered the following recommendations from staff:

1) Amend the Asheville Zoning Ordinance by adding a new Section 30-5-16, NC Neighborhood Commercial District;

2) Rezoning certain lots in the Montford Area on Ward 3, Sheets 2, 10, 11, 13, and 16;

The Commission voted unanimously to recommend to City Council that the Asheville Zoning Ordinance be amended by adding a new NC Neighborhood Commercial District and that the existing zoning in Montford remain.

Upon motion of Councilman Bratton, seconded by Councilman Price, the consent agenda was unanimously adopted.

VI. OTHER BUSINESS:

ORDINANCE NO. 1740 - BUDGET ORDINANCE - TONE ALERT SYSTEM FOR FIRE DEPARTMENT

At the request of the City Manager, Councilman Bratton moved for the adoption of a budget amendment in the amount of $33,870 for a tone alert system in the Fire Department. This motion was seconded by Councilman Frank.

On a roll call vote of 6-0, Ordinance No. 1740 passed on first and final reading.

Ordinance Book No. 11 Page No. 402

COMMENTS RELATIVE TO COUNCIL'S SELECTION OF NEW COUNCILMEMBER

W. Steve Wilborn, President of the Asheville Branch of the NAACP, read the following prepared statement:

November 28, 1988

The Asheville Branch of the NAACP would like to go on record to express our objection to the process that City Council used to appoint Mr. Robert York to fill the unexpired term of former council member Walt Boland. While it is understood that Council

executed its duty in filling the vacancy, the nomination and appointment process was, in our opinion, done secretly and in a style reminiscent of back-room politics. Interested Asheville citizens should have been given an opportunity to comment, ask questions, and express their opinions about, 1) the process that would be used to nominate and appoint Mr. Boland's replacement, 2) the qualifications members of Council would be looking for in prospective candidates, in addition to the requirement that (s)he be a Democrat and, 3) when interviews would be held. As a result of your failure to fully disclose all the procedures surrounding this situation, there is and continues to be a great deal of discussion in the Greater Asheville community concerning the expeditious manner in which the appointment was made.

Those actions and inactions, coupled with your pro-business at the expense of neighborhood/city-wide problems have diminished our trust in your good-faith effort to represent all the people equally. Therefore, at this time, we formally request that you agree to voluntarily establish a district representative form of government for City Council. We also request that you give us an answer within six weeks from this date. Thank you.

W. Steve Wilborn, President Marilyn Bass, Secretary

J. Walter Hills, from the Interdenominational Ministerial Alliance of Asheville and Vicinity, read the following prepared statement:

Dear Mayor and Council Members,

It is with profound disappointment that we, the Interdenominational Ministerial Alliance of Asheville and Vicinity, address you concerning the recent appointment to City Council.

Our concern is twofold:

1. The strategy which the council choose to make the appointment secretive, without input or consideration of the community.

2. We feel that the appointment coupled with the ways & means that the appointment was made shows insensitivity to the Black Community.

The community-The Black Community has always supported in a large way is responsible for having a democratic controlled council. It is our opinion that this council missed a golden opportunity to show its appreciation for the support you have been given. Your disregard for our voice shall be remembered during the next election. During the ensuing years and the upcoming elections, we urge you to remember this act of insensitivity.

Respectfully Submitted,

J. Walter Hills

Reverend James E. Roberts
President

Reverend J. F. Wills
Secretary

Reverend O. T. Tomes
Treasurer

Brita Larsen Clark, with North Carolina Sane/Freeze, read the following prepared statement:

November 29, 1988

Asheville City Council
City Hall
Asheville, North Carolina

On behalf of the Asheville chapter of SANE/FREEZE I would like to join in protest regarding how a replacement for Dr. Boland was chosen. The process of choosing a replacement must be an open one in which all sectors have a voice.

We are particularly concerned that the Asheville Black community's legitimate call for more equitable representation was met with evasion and equivocation until they were presented with a fait accompli.

We cannot have a government that is responsive to all the people unless all parties are involved in its development. Under-the-table negotiations deny important constituencies their voice in a process that should be conducted in an open and forthright manner.

A more public process will benefit the entire community by helping us to recognize each other's strengths and needs, and teaching us to work together constructively.

Sincerely,

Brita Laren Clark
Route 1, Box 738
Candler, N. C. 28715

Dorothy Krisbaum spoke in support of the NAACP's position on the replacement of the Council member. She said she felt the concerns from the Black Community were ignored.

Mary Kay Larer speaking in support of the NAACP's position on the replacement of the Council member said she felt Council's quick

decision is a tragedy and Council was unfair to the Black Community.

Councilman Frank commented that this was the second time she had went through the process of selecting a Council member and in her opinion Council could not please everyone in their selection. She said it is a "no-win" situation for Council members.

COMMENTS BY BOB BROWN - ELECTION OF SCHOOL BOARD MEMBERS

Bob Brown, Chairman for the Citizens for a Vote in the Schools, read the following prepared statement:

Thank you for the opportunity to present this petition to you. It contains the signatures of eight hundred and fifty-six persons who request that the Council take the necessary steps to provide Asheville with an elected Board of Education.

This issue is not raised as a response to the performance of current or past Boards, but in the belief that the nature and importance of public education requires an elected Board.

An appointed Board by its character does not require or seek public involvement or approval. We find the Board, appointed in executive session, conducting the majority of its business in executive session. This kind of secrecy is more appropriate to foreign intrigue than to the education of children.

This Board should be elected by the public because the operation of the public schools is public business. It involves millions of tax dollars and our children's future.

Open government is good government. Thousands of men and women in Asheville join us in asking City Council for an elected Board of Education. We are not asking for unusual privileges. Of one hundred and forty school districts in North Carolina, only eleven fail to give the people a vote on their Board of Education. The people of Asheville can surely choose a Board wisely, and join residents of the great majority of school districts in North Carolina and the nation who see these elections as a simple instance of their rights as citizens.

Please consider this request. In the event that Council will not grant it, we ask that the Council members voice their objections publicly.

Thank you for your attention.

Bob Brown, Chairman, Citizens for a Vote in the Schools
79 Tacoma Circle
Asheville, N. C. 28801
phone: 253-6663

Upon inquiry of Councilman Bratton, Mr. Brown said it would be his preference that the election be by districts.

CLAIMS - THOMAS HUTCHISON (STREETS) - PAUL RENEAU (WATER) - DAVID HALL (WATER) - DIANE DEMARIA (SEWER) - SUSAN ROBINSON (WATER) - NORMAN WORLEY (PARKS) - RUTH E. BYRD (STREETS) - PETER FALCIGNO (SEWER) - C. RICHARD PARSONS (WATER)

The City Manager presented claims received from Thomas Hutchison, Paul Reneau, David Hall, Diane DeMaria, Susan Robinson, Norman Worley, Ruth E. Byrd, Peter Falcigno, and C. Richard Parsons.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

LAWSUITS - JACK MCCRAKEN, JACK WOODHOUSE AND LAWRENCE TRABER (BEAVERDAM ANNEXATION) - RUSSELL A. MATHESON AND WIFE, ELAINE R. MATHESON AND KAY LEE WRIGHT (BEAVERDAM ANNEXATION)

The City Manager said the city was served with lawsuits during the week of November 18, 1988 involving Jack McCraken, Jack Woodhouse, and Lawrence Traber (challenge to annexation of Beaverdam area by people living outside the annexation area) and Russell A. Matheson and wife, Elaine R. Matheson and Kay Lee Wright (challenge to annexation of Beaverdam area by people living inside the annexation area).

Mayor Bissette referred the lawsuits to the Corporation Counsel for investigation and recommendation.

VII. ADJOURNMENT

Upon motion of Councilman Price, seconded by Vice-Mayor Michaelove, the meeting adjourned at 5:35 p.m.

MAYOR

CITY CLERK

Tuesday - December 6, 1988 - 4:00 P.M.

Regular Meeting

Present: Vice-Mayor Kenneth M. Michalove, Presiding; Norma T. Price, Wilhelmina Bratton, and Russell Martin; Corporation Counsel William F. Slawter; Assistant City Manager Charles Penny and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Mayor W. Louis Bissette and Councilman Mary Lloyd Frank; City Manager Douglas O. Bean;

INVOCATION

The invocation was given by Councilman Norma Price.

APPROVAL OF MINUTES - NOVEMBER 29, 1988 MEETING

Vice-Mayor Michalove announced the approval of the minutes of the November 29, 1988 meeting.

I. PROCLAMATIONS:

A. Proclamation - World Healing Day - December 31, 1988

Vice-Mayor Michalove proclaimed December 31, 1988 as World Healing Day. He said Gloria Free with the Planetary Commission had requested the proclamation and a copy would be forwarded to the Planetary Commission.

II. PUBLIC HEARINGS:

III. OLD BUSINESS:

IV. NEW BUSINESS:

V. CONSENT:

A. Resolution No. 88-177 - Resolution appointing member to the Alcohol Beverage Control Board.

SUMMARY: This resolution will appoint Eugene W. Ellison as a member of the Alcohol Beverage Control Board to serve the unexpired term of Warren G. Cabaniss, term expiring November 13, 1990, or until his successor is duly appointed and qualified.

C. Resolution No. 88-178 - Resolution appointing members to the Historic Resources Commission.

SUMMARY: This resolution will appoint Kenneth Wayne Robinson as a member of the Historic Resources Commission to serve the unexpired term of Carroll Hughes, term expiring July 1, 1989, or until his successor is duly appointed and qualified. It will also appoint Raymond Spells, Jr., as a member of the Historic Resources Commission to serve the unexpired term of John Nilsson, term expiring July 1, 1990, or until his successor is duly appointed and qualified.

Resolution Book No. 17 Page No. 304

D. Scheduling of two public hearings for the adoption of ordinances designating the Reed House, located at 119 Dodge Street; and the O. B. Wright House, located at 233-235 Pearson Drive as historic properties for December 20, 1988.

SUMMARY: The Historic Resources Commission has received approval from the State Historic Preservation Office to proceed with the designation of : 1) the Reed House (overlooking Biltmore Village); 2) the O. B. Wright House (important Montford House). These are all noncontroversial designations. The owners have pursued designation in each case. Property owners will received a 1989 property tax break if the buildings are designated by January 1, 1989.
The Reed House and Wright House have both undergone substantial rehabilitation recently.

Upon motion of Councilman Martin, seconded by Councilman Price, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

ORDINANCE NO. 1741 - AN ORDINANCE OF THE CITY OF ASHEVILLE ("GRANTOR") AUTHORIZING THE TRANSFER OF A CABLE TELEVISION FRANCHISE FROM AMERICAN CABLE TV INVESTORS TO UNITED ARTISTS HOLDINGS, INC.

The City Attorney said this ordinance is necessary as a result of a change of ownership of the stock of Daniels & Associates, Inc. He said the majority of outstanding stock of

Daniels & Associates, Inc. is now held by United Artists Communications, Inc., and its subsidiary, United Artists Holdings Inc. He said pursuant to Section 23 of the franchise the City is required to approve of the transfer and assignment of the franchise to the transferee. He said United Artists Holdings Inc. is required to file an assumption agreement assuming all rights, obligations, privileges and liabilities granted by the franchise within sixty (60) days following the last reading and adoption of the ordinance or the ordinance is void.

Councilman Bratton moved for the adoption of Ordinance No. 1741. This motion was seconded by Councilman Martin.

On a roll call vote of 4-0, Ordinance No. 1741 passed on first reading.

CLAIMS - JACKIE SEARCY (SANITATION) - N.C. DEPARTMENT OF NRCD (SEWER)- BRUCE C. RIDDLE (TRAFFIC ENGINEERING) - MRS. WILLIAM DYCUS (WATER) - JOYCE COUTLAKIS (WATER) - JAMES BALDWIN (WATER) - WEAVER MATHIS (STREETS) - RHEA FERGUSON (WATER)

Claims were presented from Jackie Searcy, N. C. Department of NRCD, Bruce C. Riddle, Mrs. William Dycus, Joyce Coutlakis, James Baldwin, Weaver Mathis, and Rhea Ferguson.

Vice-Mayor Michalove referred the claims to the City Attorney for investigation and recommendation.

VII. ADJOURNMENT

Upon motion of Councilman Bratton, seconded by Councilman Price, the meeting adjourned at 4:17 p.m.

MAYOR

CITY CLERK

Tuesday - December 13, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell Martin, and Arthur Robert York; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Mayor Bissette.

APPROVAL OF MINUTES - DECEMBER 6, 1988 MEETING

Mayor Bissette announced the approval of the minutes of the December 6, 1988 meeting as submitted.

Councilman Frank requested that the minutes show that she and Mayor Bissette were attending the National Leauge of Cities - Congress of Cities Conference in Boston, Mass. during last week's Council meeting.

I. PROCLAMATIONS:

A. Oath of office for Arthur Robert York as Councilman

Mayor Bissette said Councilman Walter Boland resigned as Councilman of the City of Asheville effective October 26, 1988. Arthur Robert York has been selected by the City Council to serve the unexpired term of Councilman Boland.

Judge Earl Fowler administered the Oath of Office as Councilman to Arthur Robert York.

B. Resolution No. 88-179 - Resolution of appreciation to Councilman Walter R. Boland

Mayor Bissette said Walter R. Boland resigned his office of Councilman on October 26, 1988. This resolution will express the City of Asheville's appreciation to Councilman Boland for his service to the City.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 88-179 was unanimously adopted.

Mayor Bissette presented the resolution to Councilman Walter Boland along with his name plate, a plaque, and a picture.

Resolution Book No. 17 Page No. 305

II. PUBLIC HEARINGS:

A. Public hearing relative to the implementation of zoning in the Montford area in accordance with the "Head of Montford Redevelopment Plan".

Ordinance No. 1742 - An Ordinance amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville," as amended (Wording Amendment - Section 30-5-16. NC Neighborhood Commercial District)

Mayor Bissette said the Asheville Planning and Zoning Commission on November 2, 1988, considered the following recommendations from staff:

1) Amend the Asheville Zoning Ordinance by adding a new Sec. 30-5-16. NC Neighborhood Commercial District. (Copy of proposed ordinance attached.)

2) Rezoning certain lots in the Montford Area on Ward 3, Sheets 2, 10, 11, 13 and 16.

The Commission voted unanimously to recommend to City Council that the Asheville Zoning Ordinance be amended by adding a new NC Neighborhood Commercial District and that the existing zoning in Montford remain.

Mayor Bissette opened the public hearing at 4:24 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, from the Planning Department, said the recommendations were derived from the adoption of the Montford Redevelopment Plan in March, 1987. He said the recommendations are in two parts, the creation of the NC Neighborhood Commercial District and the rezoning of commercial areas on Broadway, Cherry Street facing Interstate 240, and the commercial district at the "head" of Montford near the Montford Bridge to Neighborhood Commercial. He said the zoning also calls for a change in the industrial zone to LI Light Industrial along

Riverside Drive at the westernmost portion of the redevelopment area. He said the purpose of the proposed rezoning is to stop encroachment of "high intensity" businesses and encourage neighborhood type shops and services designed specifically to serve residents of the community.

By the use of maps, Mr. Emrick showed the boundaries of the Montford Redevelopment Plan along with the current and proposed zoning of the area.

Mr. Emrick said the Planning and Zoning Commission recommended the creation of the Neighborhood Commercial District but recommended that the property proposed to be rezoned remain as it is presently zoned.

Mr. Emrick said the creation of the NC Neighborhood Commercial District would be applicable to all areas of the City. He outlined the purpose, the types of uses, and the development standards of the proposed new zone.

At the request of Council, Mr. Emrick showed the boundaries of the Montford Redevelopment Plan and outlined the plan's purpose. He said it is an urban renewal type area and the Housing Authority, serving as the Redevelopment Commission, can purchase the property in the area and sell it for rehabilitation for economic growth and stability.

Mr. Emrick said the City Clerk's office had received a protest petition in opposition to the rezoning which would require a 3/4's affirmative vote from Council before the property could be rezoned.

Mike Moser, Chairman of the Planning and Zoning Commission, said the Commission likes the Montford concept and supported the creation of the NC Neighborhood Commercial District. He said it was felt that the Montford Redevelopment Plan has not had time to be implemented and the zoning should remain as it is now zoned for the present time.

Mr. Vance Cline, representing Southern Bell Telephone, said his company has a service center in the area and he spoke in opposition to the rezoning of the property. He said if the service center had to move it would probably be moved to the county either west or south in order to connect to interstates. He said the rezoning would downgrade the property and the tax base in the area.

Douglas R. Bebber, President of the Asheville Board of Realtors, read a proclamation of the Board stating that it is the opinion of the Asheville Board of Realtors that such down-zoning of the area is not in the best interest of the residents and business owners of that area due to the fact that it would adversely effect the use of the area, lower the property value and also eventually result in destruction of business. He said they are of the opinion that this would be detrimental to individual property rights, by the taking of property without just compensation.

Bob Lawrence, Lawrence Equipment Company, 265 Broadway, spoke in opposition to the rezoning and requested that Council leave the property as it is currently zoned. He said the rezoning would down-zone the area and reduce property values.

Bert Stanford, with Jowers-Stanford Company, 183 Broadway, requested that Council accept the recommendation of the Planning and Zoning Commission. He said some of the businesses in the area are not neighborhood oriented.

June Grant, a local realtor, spoke in opposition to the rezoning and requested that Council leave the property as it is presently zoned. She also spoke in opposition to the rezoning of property along Riverside Drive. She said the City needs some junk yards for individuals to get parts for their cars.

Elizabeth Graham, a resident of the Montford area for 12 years, spoke in opposition to the rezoning. She said the businesses in the area did not have an opportunity to have input into the Montford Redevelopment Plan. She said when they tried to voice their opinions during the Montford meetings they were told "their comments were not welcome."

Larry Denny suggested that the Redevelopment Commission for the Montford Redevelopment Plan get greater involvement from the residents and businesses. He spoke in support of the NC Neighborhood Commercial District but stated that the district should not apply to the Montford area.

Mike Plemmons from the Council of Independent Business Owners said the public has been given notice of this hearing and requested that Council vote on the issue at today's meeting.

Mr. Eury, from Asheville Auto Parts, spoke in opposition to the proposed industrial zone for the

junk yard area. He said wrecked/junk car yards are needed in the City of Asheville for many reasons.

Tony Clarke-Sayre, Chairman of the Montford Advisory Council, which helped to establish the Montford Redevelopment Plan, said the Council had requested that Council not make a decision on the zoning at today's meeting in order to give the Council an opportunity to research the concerns expressed by the businesses in the area. He said the residents in the Montford area feel that the zoning change would help preserve the residential quality of the neighborhood while allowing businesses to enhance the community. He said the change to light industrial would be a step toward phasing out heavy industry and encourage lighter industry and manufacturing along what they hope will be a revitalized riverfront.

Shirley Dozier, owner of several lots on Montford Avenue and Short Street across from Randolph School, said they had objected to their property being downzoned three years ago to residential but Council rezoned it anyway. She said the property should be put back to CBD. She said the Housing Authority personnel has been harassing her tenants about buying their property. She said she did not want any more Housing Authority representatives on her property upsetting her elderly tenants.

Jackie Benning, a 32 year resident of Montford, said Council should consider this issue very carefully.

Bob Ray, Jr., 65 Flint Street, Carpet Services, Inc. spoke in opposition to the rezoning stating that this would downzone the property and lower property values. He said this would be a direct loss to the businesses in the area. He said the businesses in the area were not contacted for input into the Montford Redevelopment Plan. He requested that Council leave the property as it is now zoned and that Council take action on the issue at today's meeting.

Tony Clarke-Sayre said the Montford Advisory Council probably did not involve the businesses in the area as they should have. He said he would not object to Council not taking action on the proposed rezoning. He said the Montford Advisory Council would involve the businesses in future meeting if they are receptive to the idea.

Vice-Mayor Michalove moved for the adoption of Ordinance No. 1742, creating the NC Neighborhood

Commercial District. This motion was seconded by Councilman Price.

On a roll call vote of 7-0, Ordinance No. 1742 passed on first reading.

After discussion, Councilman Price moved to postpone action on the proposed rezoning until January 17, 1989 giving the Montford Advisory Council an opportunity to talk with the businesses in the area; further that the Planning and Zoning Commission convene a meeting of the neighborhood group to review the Montford Redevelopment Plan in detail. The motion died for the lack of a second.

After further discussion, Councilman Price moved to accept the recommendation of the Planning and Zoning Commission to leave the property as it is currently zoned and that the matter be referred back to the Planning and Zoning Commission for further consideration. This motion was seconded by Councilman Bratton and carried unanimously.

III. OLD BUSINESS:

A. Ordinance No. 1741 - Second reading of an ordinance of the City of Asheville ("Grantor") authorizing the transfer of a cable television franchise from American Cable TV Investors to United Artists Holdings, Inc.

Mayor Bissette said this ordinance will approve and consent to the transfer and assignment of the franchise to Daniels & Associates, Inc. and/or its affiliates which are controlled by United Artists Communications, Inc. This ordinance passed on first reading on December 6, 1988.

Mayor Bissette said questions had been raised relative to the ordinance which can be answered prior to the third reading of the ordinance.

On a roll call vote of 7-0, Ordinance No. 1741 passed on second reading.

B. Quarterly report on the 2010 Asheville City Plan.

Mike Moser, Chairman of the Planning and Zoning Commission, outlined the quarterly report of the 2010 Asheville City Plan. He said he is very proud to be a part of such a valid, productive, successful plan.

IV. NEW BUSINESS:

A. Bids for automobiles and trucks for City of Asheville.

Mayor Bissette said a recommendation has been received for the award of Bid Request No. 341-89 to Matthews Ford Inc., Asheville, North Carolina, for bid items A, B, D, E, H, I, J, for a total amount of $227,273.00, and to Carolina Truck and Body Company, Inc., Asheville, North Carolina, for bid items C, (base bid) F, and K for a total amount of $42,667.25.

Grand total, Bid Items A-K, as recommended - $269,940.25.

Bid tabulations are on file in the Office of the City Clerk.

The City Manager said the bids were reviewed and approved by the Vehicle Utilization Committee.

Councilman Martin moved to accept the bids as recommended. This motion was seconded by Councilman Price and carried unanimously.

B. Resolution No. 88-180 - Resolution authorizing the City Manager to execute on behalf of the City of Asheville a contract and any change orders within the budgeted amount with APAC Carolina, Inc. for the project known as Street and Sidewalk Improvements Contract No. 3.

Mayor Bissette said this resolution will authorize the City Manager to execute the contracts with APAC Carolina, Inc. for the projects to be completed the project known as Street and Sidewalk Improvements Contract #3. The citizens of Asheville approved a bond referendum to establish funds for the replacement and repair of streets and sidewalks which are in need of replacement.

The City Manager gave members of Council a list of streets involved in Contract No. 3.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 88-180 was unanimously adopted.

Resolution Book No. 17 Page No. 306

C. Resolution No. 88-181 - Resolution authorizing the City Manager to execute an agreement with Land-of-Sky Regional Council to provide technical support concerning the proposed Stormwater Management Program.

Mayor Bissette said this resolution is for the execution of an agreement between the City of

Asheville and the Land-of-Sky Regional Council to provide technical support to City staff in coordinating with the Citizen Advisory Committee and Public meetings concerning the proposed Stormwater Management Program.

The City Manager said the contract amount would not exceed $5,000.

Upon motion of Councilman Martin, seconded by Councilman York, Resolution No. 88-181 was unanimously adopted.

Resolution Book No. 17 Page No. 307

D. **Motion to approve Amendment No. 1 to the Agreement for CH2M Hill to furnish engineering services to the City of Asheville for the storm drainage improvement project.**

Mayor Bissette said On January 12, 1988, City Council authorized the City Manager to execute an agreement with CH2M Hill, Southeast, Inc., for engineering services for a drainage study. The purpose of this amendment is to inform the public through a Public Relations Campaign about the condition of the storm drainage system and the proposed method of addressing those concerns.

The City Manager said the contract amount would not exceed $18,637.

Councilman Martin moved to authorize the City Manager to execute Amendment No. 1 to the Agreement for CH2M Hill. This motion was seconded by Councilman York and carried unanimously.

E. **Resolution No. 88-182 - Resolution authorizing the Mayor to sign a lease for property owned by the City of Asheville and known as the Pack Place Project.**

Mayor Bissette said the City of Asheville has received an offer from Pack Place Education, Arts & Science Center, Inc. to lease the property known as the Old Pack Memorial Library Building, the property on which the former Plaza Theatre was located and other certain property adjacent thereto. Under the terms of the lease, the Pack Place Education, Arts & Science Center, Inc. will renovate the Old Pack Memorial Library Building and will construct upon all of Lot A and portions of Lots B and D a new museum and theatre building to be known as "Pack Place".

Upon motion of Councilman Bratton, seconded by Councilman Frank, Resolution No. 88-182 was unanimously adopted.

Resolution Book No. 17 Page No. 308

V. CONSENT:

A. Motion to cancel Council meetings of December 27, 1988 and January 3, 1989.

Councilman Price moved to cancel the Council meetings of December 27, 1988 and January 3, 1989 due to the holidays. This motion was seconded by Councilman Frank and carried unanimously.

VI. OTHER BUSINESS:

CLAIMS - MAC WRIGHTENBERRY (SEWER) - STEVE MAYNARD (WATER) - BOBBY PEEK (WATER)

The City Manager presented claims received from Mac Wrightenberry, Steve Maynard and Bobby Peek.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

REPORT OF GROUP DEVELOPMENT ACTIONS BY THE PLANNING AND ZONING COMMISSION

Patty Tallerday, Acting Director of Planning, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. She said in accordance with the new procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. She said the following action was taken by the Planning and Zoning Commission at their meeting on December 7, 1988.

(1) INN AT THE RIDGE - HOUSING FOR THE ELDERLY - LOCATED ON RICEVILLE ROAD

Ms. Tallerday said the Asheville Planning and Zoning Commission on December 7, 1988, reviewed and recommended approval of the group development plans of the Inn at the Ridge - Housing for the Elderly, located on Riceville Road subject to the following conditions:

a) NCDOT approval of the project entrance off Riceville Road,

b) City Attorney approval of a document suitable for recording which provides an access easement to the proposed off-site parking area.

c) City Planning Department approval of landscape plan revisions showing note on the landscape plan that trees outside the "woods line" shall remain, and

d) City Council approval of a subdivision plat including the project parcel.

Council accepted the recommendation of the Planning and Zoning Commission relative to the Inn at the Ridge- Housing for the Elderly, located on Riceville Road.

(2) TAPS RV PARK - LOCATED ON U.S. 70, EAST (ADJACENT TO POSEIDON RESTAURANT)

Ms. Tallerday said the Asheville Planning and Zoning Commission on December 7, 1988, reviewed and recommended approval of the group development plans of the Taps RV Park to be located on U. S. 70, East (Adjacent to Poseidon Restaurant), subject to the following conditions:

a) A variance being granted by City Council which reduces the front setback to 10 feet.

b) City Attorney approval of an executed access easement or lease providing access between Highway 70 and the site.

c) Engineering Department approval of an erosion control plan.

d) Planning Director approval of any structure or office to be located on the premises for registration of guest if found to be necessary, and

e) City approval of any proposed subdivision.

After discussion, Councilman Price moved to schedule a public hearing on the group development plan for January 10, 1989. This motion was seconded by Vice-Mayor Michalove and carried unanimously.

$8.4 MILLION IN BOND SALES

The City Manager said $8.4 million in bonds were sold today at an interest rate of 7.0891. He said there were nine (9) bidders which shows a great interest in the City of Asheville.

RESOLUTION NO. 88-183 - RESOLUTION APPOINTING MEMBER TO THE DRUG TASK FORCE (ANN VON BROCK)

Vice-Mayor Michalove moved for the adoption of a resolution appointing Ann Von Brock to the Drug Task Force. This motion was seconded by Councilman Price and carried unanimously.

Resolution Book No. 17 Page No. 309

DRUG TASK FORCE MEETING - DECEMBER 12, 1988

Councilman Martin said he had attended the Drug Task Force and they seem to making very productive progress.

VII. ADJOURNMENT

Mayor Bissette adjourned the meeting at 6:40 p.m.

MAYOR

CITY CLERK

Tuesday - December 20, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell Martin and Arthur Robert York; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Deputy City Clerk Carol Hensley.

Absent:

INVOCATION

The invocation was given by Vice-Mayor Michalove.

APPROVAL OF MINUTES - DECEMBER 13, 1988

Mayor Bissette announced the approval of the minutes of the December 13, 1988 meeting as submitted.

PRESENTATION OF COMPREHENSIVE ANNUAL FINANCIAL REPORT (CAFR) - ANNUAL REPORT - BOND PRESENTATION REPORT

The City Manager recognized Larry Fisher, Director of Finance, Charlotte Tell, Pat Lackey, Joe Elkins and Dottie Lawing from the Accounting Division for the hard work and dedication that went into the preparation of the Comprehensive Annual Financial Report. The employees presented members of Council with their personal copy of the report.

The City Manager recognized Robin Westbrook, Public Information Director and Peggy Gardner from the Public Response Division for their efforts in the preparation of the first Annual Report which includes a narrative about the City and a financial summary. He said this report can be distributed throughout the City to citizens and civic groups. The staff members presented members of Council with their personal copy of the annual report.

The City Manager recognized Bob Wurst, Audit and Budget Director, Debbie Taylor, and Tom Fitzpatrick, the Finance Department, and the Public Response Department for their efforts in the preparation of the Bond Rating Report. He said this Bond Presentation Report helped the city receive its recent "AA" Credit rating.

The City Manager said the covers of these reports would be the "new look for the City for the next year".

I. PROCLAMATIONS:

II. PUBLIC HEARINGS:

A. Public hearing for the adoption of an ordinance designating the Reed House, located at 119 Dodge Street as local historic property.

Ordinance No. 1743 - An ordinance designating property known as the "Samuel Harrison Reed House" at 119 Dodge Street as a local historic property.

Mayor Bissette said the Historic Resources Commission has received approval from the State Historic Preservation Office to proceed with the designation of the Reed House (overlooking Biltmore Village). Property owner will receive a 1989 property tax break if the building is designated by January 1, 1989. The Reed House has undergone substantial rehabilitation recently.

Mayor Bissette opened the public hearing at 4:32 p.m.

The Deputy City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Doug Swaim, Director of Historic Resources Commission, said this is a joint public hearing with City Council and the Historic Resources Commission. He said a quorum of the Commission is present for the hearing. He showed members of Council slides of the "Samuel Harrison Reed House" at 119 Dodge Street which they are recommending as a local historic property designation. He said the house is a rare and little altered remnant of the grand lifestyle associated with the seat of a pre-Biltmore country estate. He said the house was built on a hilltop overlooking the village of Best (later Biltmore) by Samuel Harrison Reed, a wealthy local attorney who represented the George W. Vanderbilt estate. He requested that Council pass the ordinance on three readings at today's meeting in order for the owner of the property to receive a 1989 property tax break.

A spokesman from the Preservation Society said they strongly supported the designation of 119 Dodge Street as a local historic property.

Mayor Bissette closed the public hearing at 4:38 p.m.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Bratton moved for the adoption of Ordinance No. 1743. This motion was seconded by Councilman York.

On a roll call vote of 7-0, Ordinance No. 1743 passed on first reading.

Councilman Frank moved to suspend the rules and proceed to the second reading of Ordinance No. 1743. This motion was seconded by Councilman Bratton and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1743 passed on second reading.

Councilman Frank moved to suspend the rules and proceed to the third reading of Ordinance No. 1743. This motion was seconded by Councilman Bratton and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1743 passed on third and final reading.

Ordinance Book No. 11 Page No. 409-411

B. **Public hearing for the adoption of an ordinance designating the O. B. Wright House, located at 233-235 Pearson Drive as local historic property.**

Ordinance No. 1744 - An ordinance designating the O. B. Wright House, located at 233-235 Pearson Drive as local historic property.

Mayor Bissette said the Historic Resources Commission has received approval from the State Historic Preservation Office to proceed with the designation of the O. B. Wright House, located at 233-235 Pearson Drive. Property owner will receive a 1989 property tax break if the building is designated by January 1, 1989. The Wright house has undergone substantial rehabilitation recently.

Mayor Bissette opened the public hearing at 4:41 p.m.

The Deputy City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Doug Swaim, Director of Historic Resources Commission, said this is a joint public hearing with

City Council and the Historic Resources Commission. He said a quorum of the Commission is present for the hearing. He showed members of Council slides of the "O.B. Wright House and Carriage House" at 235 and 233 Pearson Drive which they are recommending as a local historic property designation. He said the "O.B. Wright House," was built around 1900 and is distinguished as one of Asheville's most carefully detailed examples of the Colonial Revival influenced variation of the Queen Anne style. He said the house is listed as a key building in Montford on the National Register of Historic Places. He said the large adjacent carriage house is essentially original in appearance and is an important adjunct to the Wright House. He said the house and carriage house comprise the original property of Osella B. Wright, early twentieth century Asheville businessman and proprietor of the Carolina Carriage House.

A spokesman from the Preservation Society said they strongly supported the designation of 235 and 233 Pearson Drive as a local historic property.

Mayor Bissette closed the public hearing at 4:45 p.m.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Martin moved for the adoption of Ordinance No. 1744. This motion was seconded by Councilman Price.

On a roll call vote of 7-0, Ordinance No. 1744 passed on first reading.

Councilman Martin moved to suspend the rules and proceed to the second reading of Ordinance No. 1744. This motion was seconded by Councilman York and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1744 passed on second reading.

Councilman Martin moved to suspend the rules and proceed to the third reading of Ordinance No. 1744. This motion was seconded by Councilman Bratton and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1744 passed on third and final reading.

III. OLD BUSINESS:

A. Ordinance No. 1741 - Third reading of an ordinance of the City of Asheville ("Grantor") authorizing the transfer of a cable television franchise from American Cable TV Investors to United Artists Holdings, Inc.

Mayor Bissette said this ordinance will approve and consent to the transfer and assignment of the franchise to Daniels & Associates, Inc. and/or its affiliates which are controlled by United Artists Communications, Inc. This ordinance passed on first reading on December 6, 1988, and on second reading on December 13, 1988.

Mayor Bissette said this ordinance was previously read on first and second reading and would not be reread.

Councilman York moved to amend Ordinance No. 1741 by striking the word "liabilities" from Section 4 and adding the words "equivalent to those transferred to American Cable TV Investors" in lieu of "now held by" and to insert the word "and" between obligations and privileges. This motion was seconded by Councilman Frank and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1741 passed on third and final reading, as amended.

Ordinance Book No. 11 Page No.

B. Ordinance No. 1742 - Second reading of an ordinance relative to an ordinance amending Ordinance No. 322, known as "An Ordinance providing for the zoning of the City of Asheville," as amended, (Wording Amendment - Section 30-5-16. NC Neighborhood Commercial District).

Mayor Bissette said the Asheville Planning and Zoning Commission on November 2, 1988, recommended that City Council amend the Asheville Zoning Ordinance by adding a new Sec. 30-5-16. NC Neighborhood Commercial District. This ordinance passed on first reading on December 13, 1988.

Mayor Bissette said this ordinance was previously read on first reading and the ordinance would not be reread.

On a roll call vote of 7-0, Ordinance No. 1742 passed on second reading.

Vice-Mayor Michalove moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1742. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1742 passed on third and final reading.

Ordinance Book No. 11 - Page No. 405 - 408

C. **Ordinance No. 1731 - Third reading of an ordinance amending Section 19A-1 and 19A-11 of the Code of Ordinances (Grievance Procedure) of the City of Asheville.**

Mayor Bissette said Section 19A-1 is being amended to clarify procedures for hearing group grievances because meeting with large groups can make it almost impossible to meet time deadlines of the present ordinance. This amendment would allow a department head the flexibility to meet with a group of employees if he/she so desires; however, it would clarify that it is not a requirement of the grievance procedure. Section 19A-11 will clarify who the department head must confer with prior to rendering a decision on a grievance as opposed to who must actually attend the grievance conference. Section 19A-11 also eliminates the time allotted for the City Manager to render his decision provided the conference is held within 10 days after the appeal is received by the City Clerk.

Mayor Bissette said this ordinance was previously read on first and second reading and would not be reread.

At the request of the City Attorney, Councilman Price moved to amend Ordinance No. 1731 to provide that employees who file a group grievance shall select no more than six (6) employee representatives from among those filing the grievance prior to presenting their complaint to their supervisor. Supervisors shall hear a grievance through the group representatives, however, the supervisor may hear the grievance with the entire group of grievants. This motion was seconded by Councilman Frank and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1731 passed on third and final reading.

D. Resolution to close a portion of Cliff Street in the City of Asheville, North Carolina.

Mayor Bissette said a petition has been filed by Westgate Shopping Center of Asheville, Inc. requesting that a portion of Cliff Street which has never been paved or otherwise utilized be permanently closed to the public use. This closing is in connection with the Westgate Shopping Center Expansion Project - Phase II. A public hearing was held on September 27, 1988. Action on the resolution was continued until December 20, 1988.

At the request of the petitioner, Councilman Price moved to continue action on the resolution until January 31, 1989. This motion was seconded by Councilman Martin and carried unanimously.

IV. NEW BUSINESS:

A. Resolution No. 88-184 - Resolution authorizing the City Manager to execute utility agreement with the North Carolina Department of Transportation for the South Hominy Creek Bridge Improvement Project.

Mayor Bissette said this agreement provides for the N. C. Department of Transportation to relocate existing utility lines associated with the South Hominy Creek Bridge Improvement Project. Even though the Asheville-Buncombe Water Authority is responsible for the Water System, utility agreements with State agencies must be by and between the City of Asheville and the appropriate State agency; due to the City being the owner of the system.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Vice-Mayor Michalove, seconded by Councilman Frank, Resolution No. 88-184 was unanimously adopted.

Resolution Book No. 17 Page No. 310

V. CONSENT:

A. Scheduling of public hearing relative to the final subdivision plat for Inn at the Ridge for January 10, 1989.

SUMMARY: The Asheville Planning and Zoning Commission on December 7, 1988, reviewed and approved the preliminary subdivision plat subject to utility easements being added consistent with the Inn at the Ridge Group Development. This contingency has been complied with and the final plat is submitted for your approval.

B. **Scheduling of public hearing relative to amending Section 30-5-12. OI- Office Institutional District to permit banks for January 10, 1989.**

SUMMARY: The Asheville Planning and Zoning Commission on December 7, 1988, voted to approve staff's recommendation that Section 30-5-12, OI Office-Institutional District be amended to permit banks.

Upon motion of Councilman Martin, seconded by Councilman Frank the consent agenda was unanimously adopted.

VI. OTHER BUSINESS:

CLAIMS - KELLY BRYSON RHYMER (WATER) - DENISE WORLEY (SEWER) - JASPER PARTON (SEWER)

The City Manager presented claims received from Kelly Bryson Rhymer, Denise Worley and Jasper Parton.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

LAWSUIT - R. L. COLEMAN & COMPANY - SUIT BY ASHEVILLE MALL

The City Manager said the City was served with a lawsuit on December 15, 1988 involving R. L. Coleman & Company relative to a suit by Asheville Mall regarding angle of intersection of Brackettown Road and White Pine Drive.

Mayor Bissette referred the lawsuit to the Corporation Counsel for investigation and recommendation.

REPORT OF GROUP DEVELOPMENT ACTIONS BY THE PLANNING AND ZONING COMMISSION

Patty Tallerday, Acting Director of Planning, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. She said in accordance

with the new procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. She said the following action was taken by the Planning and Zoning Commission at their meeting on December 13, 1988.

(1) LUSTAR SERVICE CORPORATION - ADDITION OF WAREHOUSE

Ms. Tallerday said the Asheville Planning and Zoning Commission on December 13, 1988, reviewed and approved the site plan of Lustar Service Corporation - Addition to Warehouse subject to erosion control plan approval by the Engineering Department. She said the erosion control plan has been submitted and approved and there were no public comments during the meeting.

Council accepted the recommendation of the Planning and Zoning Commission relative to the Lustar Service Corporation - Addition of Warehouse, to be located on Caribou Road.

(2) ADDITION OF MOTEL AT BLACK FOREST RESTAURANT ON U.S. 25

Ms. Tallerday said the Asheville Planning and Zoning Commission on December 13, 1988, reviewed and recommended approval of the group development plans of the addition of motel at Black Forest Restaurant on U. S. 25, subject to the following conditions:

1. Approval of the erosion control plan;

2. Receipt of a letter of approval on water and sewer services;

3. The City Council grant a variance to the number of parking spaces required for the Restaurant and Motel, with said variance in the amount of 48 parking spaces, due to the fact that the Black Forest Restaurant had only 90 parking spaces when it was annexed into the City which amounted to a shortage of 48 parking spaces being an existing condition when the property was annexed; and

4. The City Council grant a variance to the requirement that all of the parking area be paved since part of the parking area for the Black Forest Restaurant

was paved and part was graveled when the property was annexed into the City, thereby allowing an existing condition to remain; provided that all of the parking spaces for the Black Forest Motel be paved and provided that all of the parking spaces, including the graveled parking area, be separately designated.

After discussion, Councilman Price moved to schedule a public hearing on the group development plan for January 10, 1989. This motion was seconded by Vice-Mayor Michalove and carried unanimously.

VIDEO SHOWN - 1988 BELLY FLOP

The City Manager presented a video tape of Mayor Bissette and Vice-Mayor Michalove during the 1988 Belly Flop Contest.

RALPH BISHOP - COMMENTS RELATIVE TO PARKING GARAGES - LOTTERY SALES IN THE CITY

Ralph Bishop requested information relative to the cost of operation for the two new parking garages. He also commented relative to the lottery sales in the City of Asheville.

Mayor Bissette informed Mr. Bishop that information relative to the cost of operation for the parking garages would be available next year during the budget process.

VII. ADJOURNMENT

Mayor Bissette adjourned the meeting at 5:10 p.m.

MAYOR

CITY CLERK

Tuesday - January 10, 1989 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell Martin and Arthur "Bob" York; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Councilman Frank.

APPROVAL OF MINUTES - DECEMBER 20, 1988

Mayor Bissette announced the approval of the minutes of the December 20, 1988 meeting as submitted.

I. PROCLAMATIONS:

A. Proclamation - Martin Luther King Day - January 16, 1989

Mayor Bissette read the proclamation and presented a copy to Oralene Simmons with the Parks and Recreation Department.

Ray Kisiah, Director of Parks and Recreation, reported that a member of the Parks and Recreation staff, Ms. Oralene Simmons, has received three major awards within the last three months in recognition of her service to this community in helping to create Martin Luther King Week activities, specifically the Martin Luther King Prayer Breakfast which will be held for the fifth consecutive year on Saturday, January 14, at the Asheville Civic Center. The awards were:

1. The Award of Excellence by Region IX of the North Carolina Recreation and Parks Society in October;

2. The Outstanding Achievement Award by the Municipal Division of the NCRPS was presented in High Point in November; and

3. The annual Human Rights Award for promotion and practice of social progress and protection of basic human rights was presented by the Asheville and Buncombe County Baha'i Community.

In addition to these awards, Oralene has been appointed a member of the N. C. Martin Luther King, Jr. Holiday Commission by Governor Martin. She was sworn in as a member of this state commission by Mayor Bissette in December.

Mayor Bissette and members of Council expressed appreciation to Oralene Simmons for her efforts in obtaining these awards and expressed that this recognition reflects upon the City of Asheville as well.

B. Proclamation - "Land-of-Sky Chess Week" - January 9 - January 15, 1989

Mayor Bissette read the proclamation and presented a copy to Wilder Wadford, President of the Asheville Chess Club, who outlined the activities of the Asheville Chess Club and the details of the Land of Sky Chess Grand Prix to be held on January 13- 16, 1989 at the Grove Park Inn.

II. PUBLIC HEARINGS:

A. Public hearing relative to the final subdivision plat for Inn at the Ridge.

Mayor Bissette said the Asheville Planning and Zoning Commission on December 7, 1988, reviewed and approved the preliminary subdivision plat subject to utility easements being added consistent with the Inn at the Ridge Group Development. This contingency has been complied with and the final plat is submitted for approval.

Mayor Bissette opened the public hearing at 4:33 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Tom Elmore, with the Planning Department, outlined the details of the subdivision plat, stating that this would be an 80 unit apartment complex behind the VA Hospital next to the Folk Art Center. He presented members of Council with a video of the location of the proposed complex. He said the plat has been reviewed and recommended for approval by all city departments.

Mayor Bissette closed the public hearing at 4:40 p.m.

Vice-Mayor Michalove moved for the approval of the final subdivision plat for Inn at the Ridge. This motion was seconded by Councilman Martin and carried unanimously.

B. Public hearing relative to amending Section 30-5-12. OI- Office Institutional District to permit banks.

Ordinance No. 1745 - An Ordinance amending Sections 30-5-12 and 30-7-1 of the Code of Ordinances of the City of Asheville

Mayor Bissette said the Asheville Planning and Zoning Commission on December 7, 1988, voted to approve staff's recommendation that Sec. 30-5-12, OI Office-Institutional District be amended to permit banks.

Mayor Bissette opened the public hearing at 4:41 p.m.

The City Clerk presented the notice setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, for the Planning Department, said branch banks have become more prevalent since the adoption of the Zoning Ordinance in 1977. He said Planning and Zoning Commission felt there is now a need to include branch banks as a conditional use in the Office Institutional zone. He outlined the specific requirements for banks as a conditional use in the Office Institutional zone.

Mayor Bissette closed the public hearing at 4:48 p.m.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman York moved for the adoption of Ordinance No. 1745. This motion was seconded by Councilman Frank.

On a roll call vote of 7-0, Ordinance No. 1745 passed on first reading.

C. **Public hearing relative to TAPS RV Park, located on U. S. 70 - East.**

Mayor Bissette said the Asheville Planning and Zoning Commission on December 7, 1988, reviewed and recommended approval of the site plan subject to the following:

1) A variance being granted by City Council which reduces the front setback to 10 feet,
2) City Attorney approval of an executed access easement or lease providing access between Highway 70 and the site,
3) Engineering Department approval of an erosion control plan,

4) Planning Director approval of any structure or office to be located on the premises for registration of guests if found to be necessary, and

5) City approval of any proposed subdivision.

Mayor Bissette opened the public hearing at 4:50 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Tom Elmore, with the Planning Department, outlined the details of the group development plan for TAPS RV Park to be located on U.S. 70 adjacent to Poseidon Restaurant. He said the project would consist of 37 RV spaces. He said the developer is presently negotiating with the Cricket Inn for a "check-in/check-out" agreement for individuals using the park. He said if this negotiation proves successful the developer could use the Cricket Inn as an access or as an alternative they propose to access the property directly from Highway 70. He said the developer is leasing the property from the Poseidon Restaurant. He said they are requesting approval from the City for the park prior to signing a lease with Poseidon Restaurant.

Upon request by Mayor Bissette, Councilman Bratton moved to excuse Mayor Bissette from discussion and vote on this issue due to his law firm represents the Poseidon Restaurant. This motion was seconded by Vice-Mayor Michalove and carried unanimously.

At the request of Councilman Martin, the City Attorney ruled that Councilman Martin did not have a conflict of interest in this matter due to his firm providing services to one of the individuals involved in this project.

Mr. Elmore presented members of Council with a video of the location of the proposed park. He also outlined the contingencies recommended by the Planning and Zoning Commission. He said the property is zoned Commercial Highway. He said at present there are no RV parks in the City of Asheville and no permanent spacings would be provided.

Upon inquiry of Councilman York, Mr. Elmore said he did not know whether the park would be subject to a "room tax".

Vice-Mayor Michalove closed the public hearing at 5:06 p.m.

Counciman Price moved for the approval of the Group Development plan for TAPS RV PARK to be located on U. S. 70 East, adjacent to Poseidon Restaurant with the contingencies specified by the Planning and Zoning Commission and further that the buffering be as indicated by the staff in that the trees along the river remain and be maintained. This motion was seconded by Councilman Frank and carried unanimously.

D. **Public hearing relative to an addition of the motel at the Black Forest Restaurant on U. S. 25.**

Mayor Bissette said the Asheville Planning and Zoning Commission on December 13, 1988, reviewed and approved the site plan subject to the following contingencies:

1. Approval of the erosion control plan;

2. Receipt of a letter of approval on water and sewer services;

3. The City Council grant a variance to the number of parking spaces required for the Restaurant and Motel, with said variance in the amount of 48 parking spaces, due to the fact that the Black Forest Restaurant had only 90 parking spaces when it was annexed into the City which amounted to a shortage of 48 parking spaces being an existing condition when the property was annexed; and

4. The City Council grant a variance to the requirement that all of the parking area be paved since part of the parking area for the Black Forest Restaurant was paved and part was graveled when the property was annexed into the City, thereby allowing an existing condition to remain; provided that all of the parking spaces for the Black Forest Motel be paved and provided that all of the parking spaces, including the graveled parking area, be separately designated.

Mayor Bissette opened the public hearing at 5:09 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Tom Elmore, with the Planning Department, outlined the details of the group development plan for the addition of the motel at Black Forest Restaurant on U. S. 25. He presented members of Council with a video of the location of the addition which is to include 20 additional motel units. He explained the variance requested to the number of parking spaces required for the Restaurant and Motel. He said the staff had recommended that the parking variance not be granted; however, the Planning and Zoning Commission felt the parking variance was in order.

A discussion was held relative to the paving of the parking spaces. Several members of Council felt that the areas should not be paved in order for the development to keep its natural character.

Councilman Martin said in his opinion the parking variance should not be granted.

Mr. Herbert Schlenker, owner of the Black Forest Restaurant, said it was his intention to pave all the parking spaces that he could but he could not pave all of them.

Kenneth Pankow, with Pankow Engineering Company, spoke in support of the project. He said they would be saving all the bigger trees and in his opinion a gravel parking lot would be in keeping the character of the restaurant.

Mayor Bissette closed the public hearing at 5:25 p.m.

Councilman Martin and Councilman Frank said they would be voting against the project because they felt the parking variance should not be granted and Council should accept staff's recommendation not to grant the variance.

Councilman Price moved for the approval of the group development plan for the addition to the motel at the Black Forest Restaurant on U. S. 25 as recommended by the Planning and Zoning Commission. This motion was seconded by Councilman York and carried on a voice vote of 5-2, with Councilman Martin and Councilman Frank voting "no".

E. Public hearing relative to continuance of a moratorium on the issuance of permits for off-premise advertising signs within the zoning jurisdiction of the City of Asheville.

Ordinance No. 1746 - An ordinance extending a moratorium on the issuance of permits for off-premise advertising signs.

Mayor Bissette said on October 18, 1988 City Council adopted an ordinance imposing a moratorium on the issuance of permits for off-premise advertising signs within the zoning jurisdiction of the City of Asheville. The moratorium expires on January 16, 1989. The Sign Commission, the Asheville Planning and Zoning Commission and the Asheville City Council will conduct a joint work session regarding a proposed sign ordinance in the near future and thereafter the Planning and Zoning Commission and the City Council will consider action thereon. It is in the best interest of the City and all residents of the zoning jurisdiction of the City, as well as persons engaged in the sign business, that signs not be erected during said interim period which would not conform to the new ordinance.

Mayor Bissette opened the public hearing at 5:26 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

The City Attorney said the current moratorium for off-premises advertising signs expires on January 16, 1989. He said this ordinance would extend the moratorium until May 17, 1989 giving the Sign Commission and Council ample opportunity to adopt a new ordinance regulating signs.

Mayor Bissette said he received a request from a local sign company that the ordinance be amended to allow a sign company to replace an existing sign if the need arose.

Albert Sneed, Attorney representing Summey Outdoor Advertising Company, requested that the ordinance be amended to allow a sign company to replace an existing sign. He presented suggested language to the City Attorney for an amendment to the ordinance. He said this amendment would not allow an increase in the number of signs in the City but would allow

for replacement. He said the present ordinance places a hardship on the sign companies in that there are leases involved with many of the off-premises advertising signs which from time to time have to be negotiated.

Frank Graham, Attorney representing Neagle Outdoor Advertising Company, made the same request as Attorney Albert Sneed.

Mayor Bissette closed the public hearing at 5:35 p.m.

The City Attorney suggested that the ordinance contain a new section as follows: "Provided that this moratorium shall not apply to the issuance of permit for the reconstruction of any sign legally existing on October 18, 1988, at the same site or at an alternate site otherwise allowed by the Code of Ordinances. Provided further, that such permit shall only be issued upon proof that the existing sign will be demolished, moved or removed and that any replacement sign shall not exceed the dimensions or height of the existing sign and shall otherwise comply with the requirements of the sign ordinance."

Councilman Price moved for the adoption of Ordinance No. 1746 adding the provision suggested by the City Attorney. This motion was seconded by Councilman Frank.

On a roll call vote of 7-0, Ordinance No. 1746 passed on first reading.

Councilman Price moved to suspend the rules and proceed to the second reading of Ordinance No. 1746. This motion was seconded by Councilman Bratton and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1746 passed on second reading.

Councilman Price moved to suspend the rules and proceed to the third reading of Ordinance No. 1746. This motion was seconded by Councilman Bratton and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1746 passed on third and final reading.

Ordinance Book No. 11 Page No. 417 - 418

III. OLD BUSINESS:

IV. NEW BUSINESS:

A. Report on the Certificate of Occupancy Inspections Procedure.

The City Manager reviewed the following report to Mayor Bissette and Members of City Council:

"MEMORANDUM TO: Mayor Bissette and Members of City Council

FROM: Douglas O. Bean, City Manager

DATE: January 6, 1989

SUBJECT: Certificates of Occupancy

Just before Christmas we became aware that the majority of units at Wind In The Oaks were occupied without a Certificate of Occupancy.

For some time, we had been working with Mr. David Lynn who is in a unit that not only does not have a Certificate of Occupancy but is actually unsafe for human habitation. We were in the process of working with Mr. Lynn when he went to Action Line about his particular problem. At that point in time, Action Line pursued this matter, and we have done further investigations into the Certificate of Occupancy procedure in the City of Asheville.

I think it is important that we clarify for you the current situation on enforcing Certificates of Occupancy.

A. North Carolina Building Code: The North Carolina Building Code requires that before any newly constructed unit is inhabited a Certificate of Occupancy must be obtained. Since the law states that the owner is responsible for a CO, the responsibility transfers with any change of ownership.

In most situations, the purchaser of a dwelling unit, the attorney representing the purchaser, the financial institution that is providing the financing, or the realtor who is representing the purchaser requires that the seller deliver the property in conformance with the terms of the building permits. This means that generally the seller is responsible at closing for providing the Certificate of Occupancy.

The situation at Wind In The Oaks, and at other places throughout the City, involves the purchase of property without obtaining a CO, which then constitutes a violation of the State Building Code.

The City is not aware of changes in ownership and is thus in the position of placing the code compliance burden on what may be an unsuspecting purchaser of a dwelling unit. The law does not allow the City to take any action against the previous owner, because it clearly states that a violation does not occur until the unit is occupied and that the owner at the time it is occupied is the individual who is responsible for code compliance. This is generally treated as a contractual obligation between the seller and the owner, and it is not a part of state law.

B. Minimum Housing Code: A similar situation involves the enforcement of the City's Minimum Housing Code. When a unit becomes vacant, a CO has to be obtained before it can be re-occupied. The same procedure is in effect with existing buildings since the owner is required to obtain a CO before a unit can be occupied.

C. Building Inspections Procedure: It has been the stated procedure of the Building Inspections Division that inspections are made when they are called for by a contractor or owner. There are several key times throughout the construction that inspections are required, and Building Inspectors will respond to requests for an inspection for footings, insulation, etc. up until the time a CO is requested.

Regular or follow-up spot inspections that are not called for by the owner or contractor have not been regularly performed by the Building Inspections Division since there is not an automated records keeping system currently in place.

D. Immediate Action:

1. At the present time, we have asked all of our Building Inspectors to search their personal inspection logs to determine if there are other structures throughout the City that they believe are occupied and do not have CO'S.

2. The owners of all units that are found to be occupied without a CO will be notified and times will be scheduled for an inspection of their units.

3. The Inspections Division staff will go over their inspection report with the owners to give advice and time schedules for correction of any violations of the State Building Code or Minimum Housing Code.

4. Building Inspectors, with their manual system, are to do a spot check of any new construction, even if an inspection has not been called for, at least every 30 days. This will not solve the problem of individuals violating the ordinance by occupying the dwelling, but it simply means that we will be able to determine a violation much sooner and take prompt action.

E. Long-Term Actions:

1. The staff will be working with Carolina Power & Light Company to determine if there is a way through electrical inspections to only give power on a temporary basis until such time as a CO is issued.

2. The staff will investigate ways that state law can be changed to reduce the possibility of violations of the ordinance through requirements that a CO be a condition of any property sale.

3. It is important that we move as quickly as possible to automate the Inspections Division recordkeeping system.

4. A public education campaign needs to be conducted that will provide information to realtors, attorneys, financial institutions, and the general public on the need for a Certificate of Occupancy.

F. Conclusion: It is unfortunate that a Wind In The Oaks situation took place. It is certainly incumbent upon the City to identify and take prompt action when a violation of the City Code is discovered. Internal steps will be taken to ensure that projects will be monitored more closely and that any violations will be promptly noted and rectified.

Like any other ordinance or law, there is still the possibility of violations. We cannot totally eliminate this possibility, and there is nothing under the law that would change the present situation that we have at Wind In The Oaks, that being an unsuspecting buyer purchased property without ensuring that a CO was in place. Unfortunately, the City should have discovered this violation earlier. We would still be in the position of having to be the bearer of bad news since state law requires us to enforce the ordinance on the owner.

WIND IN THE OAKS

Certificates of Occupancy Issued

Building Number	Total Number of Units	CO'S Issued

#1	3	3
#2	4 (Unit #204 - Condemned)	0
#3	5	0
#6	5	1 (#604)
#7	5	0

There are 22 total units at Wind In The Oaks, and four (4) units have Certificates of Occupancy. There are two other structures in the development, a club house and pool house, and neither have Certificates of Occupancy. In addition, two foundations have been built and the buildings are incomplete at this time.

To date, we have received calls to inspect 14 of the remaining 18 units that have not been issued Certificates of Occupancy.

John Walsh, a local resident, said in his opinion a building permit is a contract between the contractor and the City of Asheville, and in the case of the Wind in the Oaks the contractor broke the contract and could be held responsible for the violations.

Robert Newton, owner of one of the units at Wind in the Oaks, read an article from the Asheville Citizen-Times dated June 20, 1979 about the City rigidly enforcing the Certificate of Occupancy procedure and inspections. He said in his opinion the Certificate of Occupancy certifies safety of buildings. He criticized the City for not consistently implementing a plan for the issuance of Certificates of Occupancy. He said there are problems with every unit at Wind in the Oaks, even the four that Certificates of Occupancy have been issued. He said the Inspection Department is negating their responsibility by not complying with the law.

David Lynn, owner of one of the units at Wind in the Oaks, said the City has not enforced its own procedure for the issuance of Certificates of Occupancy or the state building code in that no inspection of any kind was made of his unit. He said he was surprised during a recent condemnation hearing that several documents regarding inspections of his unit are now materializing. He said the City is allowing "unethical contractors" to build without inspections.

Paul Robershire, owner of one of the units at Wind in the Oaks, said the builder's of the units are attempting to correct the problems at Wind in the Oaks. However, they have called for

inspections and can not get an inspector to talk with them or to come for an inspection.

Chief John Rukavina, Fire Chief and Director of Inspections, said he would check into the complaint that the inspectors are not talking with or making inspections for the builder's at Wind in the Oaks.

Robert Newton invited members of Council to attend David Lynn's condemnation hearing on January 18, 1989 in the First Floor City Hall Conference Room.

Mayor Bissette said he and members of Council are concerned about the problems at Wind in the Oaks and have instructed the City Manager to thoroughly investigate this complaint.

Councilman Price requested a follow-up report on this matter at next week's Council meeting.

V. CONSENT:

A. **Resolution No. 89-1 - Resolution authorizing the City Manager to execute a right-of-way agreement between Thomas John Craig and wife, Anne H. Craig, and the City of Asheville.**

SUMMARY: In order to be able to replace the sidewalk along Murdock Avenue in its present location at 132 Murdock will require the removal of three (3) trees. The additional right-of-way dedicated by Mr. and Mrs. Thomas John Craig will allow the sidewalk to be relocated in back of the trees and allow the trees to remain. This resolution will allow the City Manager to execute the necessary right-of-way agreement on behalf of the City of Asheville.

Resolution Book No. 17 Page No. 311

B. **Resolution No. 89-2 - Resolution authorizing the City Manager to execute utility agreement with the North Carolina Department of Transportation for the Sardis/Brevard Road Improvement Project.**

SUMMARY: The Asheville-Buncombe Water Authority at its special meeting of December 12, 1988 approved the installation of a water line associated with the Sardis Road/Brevard Road widening project. The Utility Agreement with the N. C. Department of Transportation must be between the City of Asheville, as owner of the Water System, and the North Carolina Department of Transportation.

C. Resolution No. 89-3 - Resolution of intent to close a portion of Centre Street and calling a public hearing on the question for February 14, 1989.

SUMMARY: A petition has been received from all property owners along the unopened right-of-way of Centre Street between Harnett Street and Clinton Avenue, requesting that the portion be closed. This portion has been reviewed by the Operational Departments of the City and no objections to closing the petitioned portion of Centre Street have been received.

D. Resolution No. 89-4 - Resolution authorizing the Mayor of the City of Asheville to accept real property located at 443 Broadway.

SUMMARY: The fee simple owners of 443 Broadway Avenue desires to sell the real property to the City of Asheville for the price of One Dollar ($1.00). The owners have executed a deed to the City as Grantee of the property located at 443 Broadway.

Upon motion of Councilman Martin, seconded by Councilman Frank, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

CLAIMS - SHARON FULLER (WATER) - MRS. JOHN REEVIE (SEWER) - EUGENE OCHSENREITER (STREETS) - TOM FRANCIS (WATER) - RITA METCALF (SEWER) - JERMAINE MOSLEY (PARKS) - GREG WATSON (INSPECTIONS) - CARLOS GOMEZ (SEWER) - PATRICIA COLE (POLICE) - DOROTHY OGLESBY (WATER) - DEWAYNE LITTLE (SEWER) - STEVE SAWYER (WATER) - TOM HICKMAN, JR. (POLICE) - DOROTHY GREEN (STREETS) - MICHAEL RAY (WATER) - DAWNWOOD HOMEOWNERS ASSOCIATION (PARKS) - JAMES MCLAIN (SEWER) - BETTY WILLIAMS (SEWER) - BARBARA PAGE (WATER)

The City Manager presented claims received from Sharon Fuller, Mrs. John Reevie, Eugene Ochsenreiter, Tom Francis, Rita Metcalf, Jermaine Mosley, Greg Watson, Carlos Gomez, Patricia Cole, Dorothy Oglesby, Dewayne Little, Steve Sawyer, Tom Hickman, Jr., Dorothy Green, Michael Ray, Dawnwood Homeowners Association, James McLain, Betty Williams, and Barbara Page.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

APPOINTMENT OF COUNCILMAN MARTIN TO ECONOMIC DEVELOPMENT PARTNERSHIP

Vice-Mayor Michalove moved that Councilman Russell Martin be reappointed to the Economic Development Partnership for a two (2) year term, term expiring December 31, 1990. This motion was seconded by Councilman Bratton and carried unanimously.

VII. ADJOURNMENT

Upon motion, the meeting adjourned at 6:30 p.m.

MAYOR

CITY CLERK

Tuesday - January 17, 1989 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, George Tisdale, and Walter Boland; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Bratton.

MINUTES - JANUARY 10, 1989

Mayor Bissette announced the approval of the minutes of the January 10, 1989 meeting as submitted.

I. PROCLAMATIONS:

A. **Proclamation - McGruff the Crime Dog - "Asheville's Number One Crime Dog"**

Mayor Bissette read a proclamation proclaiming "McGruff-the Crime Dog" as Asheville's Number One Crime Dog and presented the proclamation to Major Beaver and "McGruff" of the Asheville Police Department.

Mayor Bissette expressed his appreciation to "McGruff-the Crime Dog" for his work in educating the public, especially school children, on what they could do to prevent crime.

II. PUBLIC HEARINGS:

III. OLD BUSINESS:

A. **Ordinance No. 1745 - An ordinance relative to amending Section 30-5-12. OI- Office Institutional District to permit banks.**

Mayor Bissette said this ordinance was previously read and would not be reread in its entirety unless there was a specific request to do so.

On a roll call reading of 7-0, Ordinance No. 1745 passed on second reading.

B. **Report relative to Inspections Division.**

City Manager Doug Bean said since the last meeting, he had followed up on two items that had come up with regard to issues concerning follow-up inspections.

1. Work presently being done at Wind-In-The-Oaks and the Developer can't get an Inspector up for a final inspection:

Mr. Bean said the reason for this was because the developer had taken out a permit to repair faulty attic firewalls and that the permit was for firewalls in all of the units rather than just one unit. Therefore, he said an inspection could not be made until all the work was done in all the units.

2. Inspections Division called twice to get an Inspector up to explain inspections finding to me and no one called back:

Mr. Bean said this did in fact happen in the case of a Mr. Robichaud. However, he said the reason for this mistake was due to the call being assigned to an Inspector who suffered a leg injury and had to go home before he could contact Mr. Robichaud. He said this was an oversight and has been corrected.

Mr. Bean said an Inspector has been assigned to this particular area to be sure everything is being done to assist the owners and occupants of the Wind-In-The-Oaks. To date, he said 14 inspections have been scheduled and certified letters will be mailed to those owners/occupants that we haven't heard from.

In addition, Mr. Bean said 40 other buildings throughout the City have been identified as being occupied without final inspections or CO's, and follow-up meetings with these owners have been scheduled.

Mr. Bean said a 30-day spot check is being instituted so that the City would not be put in the position of waiting a year or more to find out a CO had not been issued. Mr. Bean said the City's Industrial Engineer has been asked to conduct a study of the Building Inspections Division to determine how we can do a better job using the same number of people.

Mr. Bean said the following serious violations at Wind-In-The Oaks were found: Four of ten units have cracked foundation walls; in all units fire separation in attics was not finished to Code; fire separation in basement, where holes were put in walls for plumbing, was not finished to Code; and deck supports were not built to Code. He said some less serious problems noted were floor beams not breaking over support posts and inadequate basement ventilation.

IV. NEW BUSINESS:

A. Ordinance No. 1747 - Budget Ordinance Amendment for Pack Place and Street and Sidewalk Bond.

Mayor Bissette said this budget amendment is to reflect $8,400,000 bond sale and revisions to the Street and Sidewalk Plan to reflect 1988/89 funding.

Mayor Bissette said copies of the ordinance had been previously distributed, and the ordinance would not be read unless there was a specific request to do so.

Councilman Bratton moved for the adoption of Ordinance No. 1747. This motion was seconded by Councilman Martin.

On a roll call vote of 7-0, **Ordinance No. 1747** passed on first and final reading.

Complete text of **Ordinance No. 1747** will be found in **Ordinance Book No. 11, Page 419.**

B. Resolution No. 89-5 - Resolution authorizing submission of an application to the U. S. Department of Housing and Urban Development for Rental Rehabilitation Program Funds.

Mayor Bissette said this resolution will authorize submission of an application to HUD for funds in the amount of $63,000 for Rental Rehabilitation Program assistance for investor owners for deferred payment loans to rehab at least eight (8) units.

Mayor Bissette said copies of the resolution had been previously distributed, and the resolution would not be read unless there was a specific request to do so.

Complete text of **Resolution No. 89-5** will be found in **Resolution Book No. 17, Pages 315 and 316.**

V. CONSENT:

VI. OTHER BUSINESS:

CLAIMS - JUDY MERCHANT (SEWER), MICHAEL PONDER (WATER), TAMMY DODSON (SEWER), CLATIE THOMAS (WATER) AND SANDRA SMITH (STREETS)

The City Manager presented claims received from Judy Merchant (Sewer), Michael Ponder (Water), Tammy Dodson (Sewer), Clatie Thomas (Water) and Sandra Smith (Streets).

Mayor Bissette referred the claims to the City Attorney for investigation and recommendation.

LAWSUIT - CAPPER TRAMM V. CITY OF ASHEVILLE

The City Manager said the City was served with a lawsuit on January 13, 1989, involving Capper Tramm who is suing the City to maintain a roadway.

Mayor Bissette referred the lawsuit to the City Attorney for investigation and recommendation.

REPORT OF GROUP DEVELOPMENT ACTIONS BY THE PLANNING AND ZONING COMMISSION

Patty Tallerday said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. She said in accordance with the new procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. She said the following action was taken by the Planning and Zoning Commission at their meeting on January 11, 1989.

SITE PLAN - PACK PLACE EDUCATION, ARTS & SCIENCE CENTER, INC. PHASE A

Ms. Tallerday said the Asheville Planning and Zoning Commission on January 11, 1989, reviewed and approved the site plan of Phase A of the Pack Place Education, Arts & Science Center, Inc. subject to all phases being consistent with the City Streetscape Plan as determined by the Planning Director prior to occupancy of the project; approval of water and sewer service; approval of rubbish removal plans, and erosion control and utility plans being approved by the Engineering Department prior to construction.

Council accepted the recommendation of the Planning and Zoning Commission relative to the site plan for Phase A of the Pack Place Education, Arts & Science Center, Inc.

INTRODUCTION - NEW PLANNING DIRECTOR

City Manager Doug Bean introduced Julia C. Cogburn as the new Planning Director. He said he was pleased that Mrs. Cogburn had decided to accept the position.

Mr. Bean thanked Patty Tallerday, who had served for the past four and one-half months as the Acting Director of Planning. He said Ms. Tallerday had done a superb job.

PAY ISSUES FOR CITY EMPLOYEES

Mr. Forrest Howard, resident of Riverview Drive, addressed the City Council relative to higher pay for members of the Asheville Police Department. Mr. Howard said he was a 5-year veteran of APD, but presently works for the U. S. Marshall's Office.

Officer Tom Aardema, President Lodge #1 of the Fraternal Order of Police, spoke in support of higher pay for police officers. He said the officers just can't live on what they are being paid. He said the officers need a 25% salary increase now to bring them up to what they should be. Officer Aardema said the Police Department is losing experienced officers as soon as they train them.

Mayor Bissette said the Council does want its employees to be compensated on a fair and competitive basis. He realizes it is almost indescribeable what police officers go though on one patrol, but that the City Council wants all City employees to be fairly compensated. He said this is why Council authorized the pay studies which compared the salary of City employees to other cities of our approximate size. Mayor Bissette said the City Council expects to receive a report on the pay study within the next month. He emphasized that the main purpose of the study was to be sure that the City of Asheville pay plan is competitive with other cities.

Officer Gary Rickman said he had followed the Grievance Procedure on a pay issue, but that he had not received any satisfaction. He said the Civil Service Board was supposed to write a letter to the City Council making a recommendation on his particular situation.

Mayor Bissette requested that City Manager Doug Bean give Council a report on Officer Rickman's Grievance in an Executive Session.

Upon inquiry of Councilman Frank, Assistant City Manager Charles Penny said as of November 16, 1988, there were 10 vacancies in the Police Department - 6 in patrol, 1 in C.I.D., 1 in Administration, 1 in Technical Services, and 1 in Support Services. At that time, he said three retirements were also anticipated. Mr. Penny said the next Cadet Class will begin in late February or early March of this year.

Mr. Arnold Cremer of the Traffic Engineering Division told Council that low morale was a problem in the Traffic Engineering Division due to low and inadequate pay.

Officer Randy Martin said the job of a police officer is very different in nature from jobs other City employees do. He said police officers' lives hang in the balance every time they respond to a call. For this reason, he said he felt police officers should be treated differently.

Officer Rick Matthews, 6-1/2 year veteran of APD, said he presently works alone with no back up and that he has to depend on other agencies.

Officer Paul Reno said there were 12 officers in his rookie class and that 12 graduated. However, he said two officers have quit due to low pay.

Officer Phillip Maxwell, 7-year veteran of APD, said he is currently assigned to Hillcrest - a job he didn't volunteer for. He said he would really have to concur with Mr. Howard's opinion on the shortage of manpower.

Ralph Bishop, speaking from a victim's viewpoint, said he felt police officers were not entitled to any raise in pay until they begin enforcing all of the laws of North Carolina, especially lottery peddling in the City of Asheville.

Officer Michael Lanning took exception to Mr. Bishop's remarks and said that on his second day on the job he was wounded when he responded to an armed robbery. He said the City of Greenville, SC, is currently paying their entry officers $22,000 and if they have a college education $23,000. He said people take forgranted what police officers do for a living.

Officer Rhonda Castlewitz also took exception to Mr. Bishop's remarks and challenged anyone to do what the officers are doing for what they are making.

JOHNNY BAXTER - YMI BUILDING REMAINING ON NATIONAL REGISTER

Mr. Johnny Baxter addressed the Council relative to the YMI Building remaining on the National Register of Historic Buildings. Mr. Baxter said the contract calls for the building to be restored to its original character and if this is not done, there is a chance that it will be taken off the National Register. He said there are three (3) serious violations of the contract. Also, he said the name of the auditorium has been changed and this also tales away from the original character of the YMI. He requested Council's assistance in enforcing the terms of the contract and getting the name of the auditorium changed back to its original name. He said the City of Asheville had granted an easement to the YMI; therefore, he felt the City had some authority to assist in this matter.

Mayor Bissette told Mr. Baxter he would have the City Attorney look into the situation and see what legal rights and responsibilities the City has, if any, with regard to the YMI Building.

VII. ADJOURNMENT

Mayor Bissette adjourned the meeting at 5:40 p.m.

MAYOR

CITY CLERK

Tuesday - January 24, 1989 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell Martin and A. Robert York; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Councilman York.

APPROVAL OF MINUTES - JANUARY 17, 1989

Mayor Bissette announced the approval of the minutes of the January 17, 1989 meeting as submitted.

I. PROCLAMATIONS:

ANNOUNCEMENT - ASHEVILLE TROLLEY CARS RETURNING

Karen Fields, Executive Director of Asheville-Buncombe Discovery, said several months ago she presented a proposal to Council for the acquisition of two (2) old Asheville Trolleys which were in Spindale.

She said an Asheville Trolley Committee was formed to raise funds for the acquisition and restoration of the Asheville Trolleys. She said a deadline of January 24, 1989 was set to raise $15,000 to buy the cars and $10,000 to transport them up the mountain. She said two weeks ago, the Asheville Trolley Committee began a final, intensive effort to find the money. She said on Monday, January 23, they were far short from their goal. However, Edna and Wayne Blanton from Blanton's Business College decided that the trolleys deserved to be brought home and took the necessary action to ensure their return by donating $15,000 for the Asheville Trolleys and offered to take care of the transportation. She said with the support of the Blantons in helping transport the cars and with the additional support of interested groups across the state, they now have a total of

Upon motion of Councilman Martin, seconded by Councilman Price, Resolution No. 89-6 was unanimously adopted.

Resolution Book No. 17 Page No. 317

V. CONSENT:

VI. OTHER BUSINESS:

A. Ordinance No. 1748 - Budget Ordinance amendment to provide funding for career development program in Police Department

The City Manager said a Career Development Plan was adopted by the Civil Service Board and put into effect in January of 1983 setting up four classes of Police Officers - Police Officer Trainee, Police Officer I, Police Officer II, and Police Officer III. He said in July of 1985, the City implemented a new pay plan City-wide and at that time the Police Office II and Police Officer III positions were combined into one class title - Police Officer Senior. He said the requirement for movement from Police Officer to Police Officer Senior was three continuous years and an accumulation of 25 education and training points. He said somewhere along the line this action was not taken and 27 officers are eligible for upgrading to Police Officer Senior. He said 12 of the officers have not yet met their training requirements (points); however it would be his recommendation that the 27 officers be upgraded and back pay benefits awarded from the time they became eligible and that the 12 that have not met their requirements also be given the back pay benefits and be given a period of two years to obtain the necessary training. He said the cost associated with this action would be $61,514.61. He said adoption of this budget amendment would allow this to take place.

Councilman York moved for the adoption of Ordinance No. 1748. This motion was seconded by Vice-Mayor Michalove.

On a roll call vote of 7-0, Ordinance No. 1748 passed on first and final reading.

Ordinance Book No. 11 Page No. 420

REPORT - WIND IN THE OAKS UPDATE

The City Manager said, as of today, the City has been in contact with all but one property owner in the Wind-in-the-Oaks complex. He said either inspections and/or return visits for explanation and clarification have

$19,276 in a special trolley account with Asheville-Buncombe Discovery.

She said the cars should be ready for the journey to Asheville within two months and the committee will begin meeting immediately to determine a site for the cars during restoration and to begin work for a feasibility study on the best use of these trolleys for the people in Asheville.

Mayor Bissette introduced the members of the Asheville Trolley Committee in attendance and expressed the City's appreciation for their efforts, with particular appreciation to Edna and Wayne Blanton, who have made trolleys in Asheville a reality again.

II. PUBLIC HEARINGS:

III. OLD BUSINESS:

A. Ordinance No. 1745 - Third reading of an ordinance relative to amending Section 30-5-12. OI- Office Institutional District to permit banks.

Mayor Bissette said the Asheville Planning and Zoning Commission on December 7, 1988, voted to approve staff's recommendation that Sec. 30-5-12, OI Office-Institutional District be amended to permit banks.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

On a roll call vote of 7-0, Ordinance No. 1745 passed on third and final reading.

Ordinance Book No. 11 Page No. 415 - 416

IV. NEW BUSINESS:

A. Resolution No. 89-6 - Resolution authorizing the City Manager to execute a contract with Matthews Ford, Inc. for the purchase of two (2) mid-size sedans for the Division of Engineering.

Mayor Bissette said bids for automobiles were received by the Purchasing Division in November, 1988. Included in these bids were two vehicles for the Division of Engineering as called for in the City of Asheville Capital Improvement Program. At the December, 1988 Asheville-Buncombe Water Authority meeting, it was decided not to fund these Engineering vehicles out of the Water Department Budget

been scheduled. He said no more major structural violations have been found. He said the City met with the Board of Directors at the Wind-in-the-Oaks and they have indicated a willingness to help get responses from all Wind-in-the-Oaks occupants.

The City Manager said a new procedure has been implemented for conducting final inspections for structural, electrical and plumbing code compliance at the same time, with a limited option for temporary CO's (for which a permit-holder must apply in writing) in cases where utilities are needed before a permanent CO can be authorized.

The City Manager took exception to a recent editorial in the newspaper regarding the issuance of Certificates of Occupancy. He said he realizes that editorials are only opinions but the information in the editorial was not factual. He stressed that a Certificate of Occupancy is not required prior to the sale of a structure but prior to occupancy.

COMMENTS BY PAT RITCHIE - PROPOSED TOWN OF FLETCHER

Pat Ritchie, Interim Mayor for Proposed Town of Fletcher, read the following letter and resolution.

January 23, 1989

Mr. Gerry Cohen, Director
Legislative Drafting Division
Room 100
2129 State Legislative Building
Raleigh, NC 27611-9184

Dear Mr. Cohen:

The Interim Board on behalf of the Fletcher Improvement Committee and the majority of the residents of the proposed Town of Fletcher request that the attached resolution or the intent there of be included in the charter of the Town of Fletcher. The intent being that Fletcher shall not annex into any portion of Buncombe County.

Respectfully,

Patricia G. Ritchie, Interim Mayor
Harold N. Conner, Interim Board Member
Byron M. Terrell, Interim Board Member
John F. Parris, Sr., Interim Board Member
Sara S. Waechter, Interim Board Member
Robert G. Parrish, Chairman of Fletcher Community Improvement Committee

PROPOSED TOWN OF FLETCHER
INTERIM GOVERNING BOARD
RESOLUTION

concerning encroachment upon bordering county lines

WHEREAS, the Fletcher Community Improvement Committee was formed in June, 1988 with its purpose being to incorporate the community of Fletcher; and

WHEREAS, the Interim Governing Board is made up of a five member team which is drawn from the Fletcher Community Improvement Committee and which shall be the governing body of the Town of Fletcher when incorporated until the first general election; and

WHEREAS, it is within the authority of the aforementioned board to resolve and present this in representation of the Fletcher Community Improvement Committee for the proposed Town of Fletcher and its residents.

NOW, THEREFORE BE IT RESOLVED, and hereby recorded that the Interim Governing Board of the Proposed Town of Fletcher shall not at any time encroach on any portion of the county lines which touch proposed boundaries before or after the incorporation of said town.

Adopted this 18th day of January, 1989.

Interim Governing Board
Proposed Town of Fletcher

Pat Ritchie, Interim Mayor
Harold Conner, Council Member
Byron M. Terrell, Council Member
John F. Parris, Sr., Council Member
Sara S. Waechter, Council Member

Fletcher Community Improvement Committee
Robert G. Parrish, Sr., Chairman

ANNOUNCEMENT - ESTABLISHMENT OF COMMISSION FOR THE BILTMORE VILLAGE HISTORIC MUSEUM

Robert Griffin appeared before Council to announce the establishment of a Commission for the Biltmore Village Historic Museum. He said the museum should be open in May, 1989 and is being established to collect, preserve, and catalogue the history of Biltmore Village. He said the museum would be located at 32 All Souls Crescent.

RALPH BISHOP - LOTTERY SALES IN THE CITY

Ralph Bishop again spoke to members of Council about the lottery sales in the City of Asheville.

ADJOURNMENT:

Upon motion of Councilman Martin, seconded by Councilman York, the meeting adjourned at 4:45 p.m.

MAYOR

CITY CLERK

Tuesday - January 31, 1989 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell Martin and A. Robert York; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Councilman Martin.

APPROVAL OF MINUTES - JANUARY 24, 1989

Mayor Bissette announced the approval of the minutes of the January 24, 1989 meeting as submitted.

I. PROCLAMATIONS:

Resolution No. 89-7 - Resolution in memory of William F. Algary

Mayor Bissette read a resolution in memory of William F. Algary, a former member of the Council of the City of Asheville from September, 1955 until May, 1969.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 89-7 was unanimously adopted.

Resolution Book No. 17 Page No. 318

A. "Heart of Asheville Month" - February, 1989

Mayor Bissette said the "Heart of Asheville Month" is to celebrate the revitalization of downtown with fellow Ashevillians.

Mayor Bissette presented a copy of the proclamation to Mark Rosenstein, President of the Downtown Association, who explained the activities taking place during February, 1989 to celebrate the revitalization of downtown.

B. "American History Month" - February, 1989

Mayor Bissette read a proclamation proclaiming February, 1989 as "American History Month". He presented a copy to Clare McDowell with the Daughters of the American Revolution.

II. PUBLIC HEARINGS:

III. OLD BUSINESS:

A. **Resolution to close a portion of Cliff Street in the City of Asheville, North Carolina.**

Mayor Bissette said a petition has been filed by Westgate Shopping Center of Asheville, Inc. requesting that a portion of Cliff Street which has never been paved or otherwise utilized be permanently closed to the public use. This closing is in connection with the Westgate Shopping Center Expansion Project - Phase II. A public hearing was held on September 27, 1988. Action on the resolution has been continued on several occasions and until January 31, 1989.

The City Attorney said this resolution should be deleted since the petitioners have withdrawn their petition to close a portion of Cliff Street.

IV. NEW BUSINESS:

A. **Report relative to Pritchard Park Bus Transfer Point.**

Bob Carr, Chairman of the Asheville Downtown Commission, said efforts are being made to redesign Pritchard Park to facilitate multiple events in the park and to allow for a variety of functions necessary for revitalization efforts downtown. He said Pritchard Park is the anchor for downtown retail business and is to be known as the "hot spot" or "happening spot" in downtown.

Mr. Carr said in order to proceed with the redesign a study was conducted with the assistance of LDR, a consultant for downtown revitalization, to relocate the Pritchard Park Bus Transfer Point. He said meetings were held with the Asheville Transit Authority in a search for a better hub site for a bus transfer point close to downtown. He said after considering all factors involved a site on South Lexington Avenue was chosen as the best possible location. He said this site has advantages and disadvantages but the City already owns the property; it is located on a 2-way street and is 1-1/2 blocks from the present bus transfer point. He said the Downtown Commission and the Asheville Transit Authority would be considering the use of a motorized shuttle bus service to this location.

He said grant funds would more than likely be available to help with this project; however, they need Council's approval of this idea in order to continue with this project. He said it would cost approximately $8,000 but federal monies would be available next spring and the City could be reimbursed with grant funds through the Urban Mass Transportation Administration. He said in his opinion this is the next major step in encouraging reinvestment downtown.

Upon inquiry of Councilman Price, Carl Owenby with the Asheville Transit Authority, said the Authority also had some concerns about receiving input from individuals that presently use the bus system. He said the bus drivers have be interacting with the users and will be given "handouts" in order to receive comments about moving the bus transfer point.

Vice-Mayor Michalove said he would like to know what additional operational costs would be involved with relocating the bus transfer point.

Councilman York said he would like to know the present income the City receives from the existing parking lot on South Lexington Avenue.

Councilman Frank said some time ago she had requested that a survey be taken of the ridership to determine how many of these individuals are shoppers in downtown. She said she felt there would be a reluctance from the residents of Battery Park and Vanderbilt Apartments in moving the bus transfer point.

Carl Owenby and Mayor Bissette said they felt the implementation of the shuttle bus service would help.

John Daniel with the Downtown Commission, said in essence they are asking the City to appropriate $8,000 for this project. He said it would probably take two (2) years for implementation of the project.

After discussion, the City Manager was instructed to proceed with the preparation of a budget amendment in the amount of $8,000 for Council's consideration.

B. Resolution authorizing the condemnation of property in the Hazel Mill Bridge Replacement Project.

Mayor Bissette said this resolution will authorize the Asheville Housing Authority to condemn, if necessary, the C. G. Johnson Heirs property on Hazel Mill Road for the Hazel Mill Road Bridge Replacement Project. Offers and negotiations for the acquisition of this property have not resulted

in an agreeable settlement and condemnation appears to be the only remaining method of acquisition.

After discussion, it was decided to postpone action on this resolution in order for Council to receive additional information and to review the plans for the Hazel Mill Bridge Project.

Councilman Bratton also requested that the individuals involved in the condemnation be notified that Council is considering taking such action.

C. **Resolution authorizing the condemnation of property in the Murdock Avenue Bridge Project.**

Mayor Bissette said this resolution will authorize the Asheville Housing Authority to condemn, if necessary, the properties at 191 and 200 Murdock Avenue owned by the Congregation Beth Isreal and O'Donald for the Murdock Avenue Bridge Project. Offers and negotiations for the acquisition of this property have not resulted in an agreeable settlement and condemnation appears to be the only remaining method of acquisition.

After discussion, it was decided to postpone action on this resolution in order for Council to receive additional information and to review the plans for the Murdock Avenue Bridge Project.

Councilman Bratton also requested that the individuals involved in the condemnation be notified that Council is considering taking such action.

D. **Resolution authorizing the condemnation of property in the Chestnut Street Bridge Replacement Project.**

Mayor Bissette said this resolution will authorize the Asheville Housing Authority to condemn, if necessary, the properties on Broadway owned by Robert C. & Betty Lawrence and Maxine M. Klutts for the Chestnut Street Bridge Replacement Project. Offers and negotiations for the acquisition of this property have not resulted in an agreeable settlement and condemnation appears to be the only remaining method of acquisition.

After discussion, it was decided to postpone action on this resolution in order for Council to receive additional information and to review the plans for the Chestnut Street Bridge Project.

Councilman Bratton also requested that the individuals involved in the condemnation be notified that Council is considering taking such action.

V. CONSENT:

A. Resolution No. 89-8 - Resolution establishing and appointing members to a Citizen Advisory Committee for the Stormwater Management Program.

SUMMARY: This committee is being established to discuss the educational program for the Stormwater Management Program.

Resolution Book No. 17 Page No. 319-321

B. Resolution No. 89-9 - Resolution appointing members to the Asheville Fair Housing Commission.

SUMMARY: This resolution will reappoint Doug Bebber and Edward Hay to the Asheville Fair Housing Commission.

Resolution Book No. 17 Page No. 322

C. Resolution No. 89-10 - Resolution appointing members to the Board of Adjustment.

SUMMARY: This resolution will reappoint Ben McKenzie as a member of the Board of Adjustment.

Resolution Book No. 17 Page No. 323

D. Resolution No. 89-11 - Resolution appointing member to the Asheville Transit Authority.

SUMMARY: This resolution will appoint Mabel Hopkins as a member of the Asheville Transit Authority.

Resolution Book No. 17 Page No. 324

E. Resolution No. 89-12 - Resolution appointing member to the Firemen's Relief Fund.

SUMMARY: This resolution will reappoint Webb Ellis as a member of the Firemen's Relief Fund.

Resolution Book No. 17 Page No. 325

F. Resolution No. 89-13 - Resolution appointing member to the Asheville Downtown Commission.

SUMMARY: This resolution will appoint Councilman York as a member of the Asheville Downtown Commission.

Resolution Book No. 17 Page No. 326

G. Resolution No. 89-14 - Resolution authorizing the Mayor to execute an application and related documents for a grant from the Appalachian Regional Commission for a Foreign Trade Zone Feasibility Study.

SUMMARY: Funds are available through the Appalachian Regional Commission for a foreign trade zone feasibility study. The Economic Development Task Force of the Asheville Area Chamber of Commerce will conduct the study; however, grant funds must come through the City of Asheville.

Resolution Book No. 17 Page No. 327

H. Scheduling public hearing relative to floodway revisions to Smith Mill Creek for project of Charles S. Livengood at 46 New Leicester Highway for February 14, 1989.

SUMMARY: Staff has reviewed the plans and calculations regarding this project. The plans indicate that no increase in flood levels will be caused by the project. Staff recommends approval of the project subject to the following contingencies: 1) Owner to obtain all appropriate Federal, State and local permits; and 2) Owner to meet all FEMA requirements, and to provide FEMA with all documentation and fees necessary pursuant to amending the Floodway Boundary and Floodway Maps, and Flood Insurance Rate Maps to the area affected by the project.

Upon motion of Vice-Mayor Michalove, seconded by Councilman Price, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

WORKER'S COMPENSATION APPEAL - GEORGE WATKINS - RETAINING ATTORNEY WILLIAM RUSSELL

At the request of the City Attorney, Vice-Mayor Michalove moved to authorize retaining Attorney William Russell to represent the City in the Worker's Compensation Appeal for George Watkins. This motion was seconded by Councilman Bratton and carried unanimously.

WOODFIN WATER SYSTEM - MAJOR PROBLEMS

Vice-Mayor Michalove said the Woodfin Water System had major water problems this past weekend. He said these problems affect city residents and the residents would probably be asking the Asheville-Buncombe Water Authority to assume responsibility of these water lines.

CLAIMS - JAMES CHAPMAN (WATER) - SIDNEY FELDMAN (WATER) - LOUISE CONLEY (SEWER) - DENISE WORLEY (WATER) - CHARLES PATTON (STREETS) - MRS. HOWARD COLLINS (SEWER)

The City Manager presented claims received from James Chapman, Sidney Feldman, Louise Conley, Denise Worley, Charles Patton, and Mrs. Howard Collins.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

ADJOURNMENT:

Mayor Bissette adjourned the meeting at 5:30 p.m.

MAYOR

CITY CLERK

Tuesday - February 7, 1989 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Wilhelmina Bratton, Russell Martin and A. Robert York; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Norma T. Price

INVOCATION

The invocation was given by Councilman Martin.

APPROVAL OF MINUTES - JANUARY 31, 1989

Mayor Bissette announced the approval of the minutes of the January 31, 1989 meeting as submitted.

I. PROCLAMATIONS:

Resolution No.89-15 - Resolution in memory of James H. Parris, Jr.

Vice-Mayor Michalove read a resolution in memory of James H. Parris, Jr., a former employee of the City of Asheville from November 25, 1946 until his retirement on June 27, 1980.

Upon motion of Vice-Mayor Michalove, seconded by Councilman Frank, Resolution No. 89-15 was unanimously adopted.

Resolution Book No. 17 Page No. 328

A. "Salute to Hospitalized Veterans Week" - February 12 - 18, 1989

Mayor Bissette read a proclamation proclaiming the week of February 12 - 18, 1989 as "Salute to Hospitalized Veterans Week" and presented a copy to James Christian, Director of VA Hospital.

B. "Vocational Education Week" - February 12 - 18, 1989

Mayor Bissette read a proclamation proclaiming the week of February 12 - 18, 1989 as "Vocational Education Week". He said a copy would be forwarded to Carol Weir, Vocational Director for the Asheville City Schools.

C. Recognition of UNC-A Basketball Team.

Mayor Bissette read a proclamation proclaiming UNC-A's Basketball Team as "Asheville's Team".

Dr. David Brown, Chancellor for UNC-A, introduced Ed Ferrell, Athletic Director and UNC-A's new Basketball Coach Don Douchette. Coach Douchette and his assistant coaches introduced the team members.

Mayor Bissette and members of Council expressed appreciation to UNC-A and everyone associated with UNC-A's Athletic Department.

PUBLIC HEARINGS:

III. OLD BUSINESS:

IV. NEW BUSINESS:

A. Report from Economic Development Partnership.

Dr. David Brown, Chairman of the Economic Development Partnership, said the partnership was formed to focus, promote, and help implement public and private efforts toward assuring the continued economic vitality of the area. He presented members of Council with a report of the Economic Development activities during the last six months - July 1988 to January 1989.

Dr. Brown said the Chamber has hired a new Economic Development Director, Steve Jenkins, to help coordinate economic development activities. He said the Partnership would like direction from members of Council on actions they would like for the partnership to take as far as economic development.

B. Sale of Disposal Parcel 220-A in East Riverside Redevelopment Project.

Mayor Bissette said the Housing Authority has tentatively accepted a bid for Parcel 220-A in the East Riverside Redevelopment Project for the reuse of Office/Institutional at a bid price of $9,500 from Livingston Medical Partnership

Councilman Martin moved to accept the recommendation of the Housing Authority for the sale of Disposal Parcel 220-A. This motion was seconded by Vice-Mayor Michalove and carried unanimously.

C. Approval of bond attorneys for Water Bonds.

Mayor Bissette said it is necessary to retain bond attorneys for work related to the bond sale and subsequent issues relating to the $40 million in Water Bonds.

Councilman Frank moved to accept the proposal from Kutak, Rock and Campbell, at an amount not to exceed $40,000 including all up front work for three (3) bond sales. This motion was seconded by Councilman Martin and carried unanimously.

D. Ordinance No. 1749 - Budget ordinance to establish a Capital Project for the Bus Transfer Center Relocation

Mayor Bissette said this budget amendment is to establish a capital project for the bus transfer center relocation and appropriate $8,000 to the project in order to proceed with a feasibility study of the site.

Councilman Bratton moved for the adoption of Ordinance No. 1749. This motion was seconded by Councilman York.

Ordinance Book No. 11 Page No. 421

V. CONSENT:

A. Resolution No. 89-16 - Resolution calling for a public hearing for the adoption of an ordinance directing the Director of Inspections to demolish the dwelling houses at 93 and 95 Starnes Avenue for March 14, 1989.

Mayor Bissette said the attached resolution will allow Council to consider the adoption of an ordinance to demolish the dwellings known as 93 and 95 Starnes Avenue, Asheville, North Carolina. Additionally, prior to the adoption of an ordinance, the resolution requires that notice be published calling for a public hearing on the question.

Resolution Book No. 17 Page No. 329-330

B. Resolution No. 89-17 - Resolution appointing a member to the Metropolitan Sewerage District Board.

Mayor Bissette said this resolution will appoint Diane McDonald as a member of the Metropolitan Sewerage District Board.

Resolution Book No. 17 Page No. 331

Upon motion of Councilman Frank, seconded by Vice-Mayor Michalove, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

JOINT CITY COUNCIL- COUNTY COMMISSIONERS MEETING

Mayor Bissette announced that the City Council members would be meeting with the Buncombe County Commissioners on Saturday morning at 8:30 a.m. at Mom and Pop's Restaurant on Tunnel Road.

REPORT OF GROUP DEVELOPMENT ACTIONS BY THE PLANNING AND ZONING COMMISSION

Patty Tallerday, from the Planning Department, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. She said in accordance with the new procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. She said the following action was taken by the Planning and Zoning Commission at their meeting on February 1, 1989.

THOMS REHABILITATION HOSPITAL - NORTH WING ADDITION

Ms. Tallerday said the Asheville Planning and Zoning Commission on February 1, 1989, reviewed and approved the site plan of Thoms Rehabilitation Hospital - North Wing Addition, off Bellview Road subject to compliance with the Erosion Control Ordinance. She said there were no public comments during the meeting.

Council accepted the recommendation of the Planning and Zoning Commission relative to Thoms Rehabilitation Hospital - North Wing Addition, off Bellview Road.

BILTMORE COMMERCE PARK LOCATED ON FAIRVIEW ROAD

Ms. Tallerday said the Asheville Planning and Zoning Commission on February 1, 1989, reviewed and approved the site plan of Biltmore Commerce Park located on Fairview Road subject to the following contingencies:

1) A 30' right-of-way from the center line of Fairview Road being dedicated to the City;
2) A 20' easement being dedicated for the sewer line serving houses to the east;
3) Evidence being presented to the Planning Director of the availability of City fire protection and permission to connect driveway to a City street;
4) Site plans being stamped by a registered professional;
5) A landscape plan being approved by the Planning Director which includes a buffer meeting the requirements of Section 30-3-14;

and
5) Compliance with Erosion Control Ordinance.

She said there were no public comments during the meeting.

Council accepted the recommendation of the Planning and Zoning Commission relative to the site plan for the Biltmore Commerce Park to be located on Fairview Road.

CLAIMS - PAUL GILSDORF (INSPECTIONS) - FRANKIE ARROWOOD (WATER)

The City Manager presented claims received from Paul Gilsdorf and Frankie Arrowood.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP - COMMENTS RELATIVE TO POLICE DEPARTMENT

Ralph Bishop again spoke to members of Council relative to the lottery sales in the City.

VII. ADJOURNMENT

Mayor Bissette adjourned the meeting at 5:10 p.m.

MAYOR

CITY CLERK

Tuesday - February 14, 1989 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Russell Martin and A. Robert York; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Wilhelmina Bratton

INVOCATION

The invocation was given by Mayor Bissette.

APPROVAL OF MINUTES - FEBRUARY 7, 1989

Mayor Bissette announced the approval of the minutes of the February 7, 1989 meeting as submitted.

I. PROCLAMATIONS:

II. PUBLIC HEARINGS:

A. Public hearing relative to closing a portion of Centre Street.

Resolution No. 89-18 - Resolution closing a portion of Centre Street

Mayor Bissette said a petition has been received from all property owners along the unopened right-of-way of Centre Street between Harnett Street and Clinton Avenue, requesting that the portion be closed. This portion has been reviewed by the Operational Departments of the City and no objections to closing the petitioned portion of Centre Street have been received.

Mayor Bissette opened the public hearing at 4:18 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Jim Ewing, Director of Public Works, said this portion of Centre Street is currently un-open and no objections have been received relative to the closing of the street. He said the street was posted with the notice of intent to close.

Mayor Bissette closed the public hearing at 4:20 p.m.

Mayor Bissette said members of Council were previously furnished with copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 89-18 was unanimously adopted.

Resolution Book No. 17 Page No. 332-333

B. **Public hearing relative to floodway revisions to Smith Mill Creek.**

Mayor Bissette said staff has reviewed the plans and calculations regarding this project. The plans indicate that no increase in flood levels will be caused by the project. Staff recommends approval of the project subject to the following contingencies:
1) Owner to obtain all appropriate Federal, State and local permits; and
2) Owner to meet all FEMA requirements, and to provide FEMA with all documentation and fees necessary pursuant to amending the Floodway Boundary and Floodway Maps, and Flood Insurance Rate Maps to the area affected by the project.

Mayor Bissette opened the public hearing at 4:21 p.m.

Mayor Bissette said the engineer for the property owner has requested that consideration of the floodway revisions to Smith Mill Creek be postponed for about a month.

Councilman Martin moved to continue the public hearing relative to floodway revisions to Smith Mill Creek until March 14, 1989 without further advertisement. This motion was seconded by Councilman Frank and carried unanimously.

III. OLD BUSINESS:

A. Resolution No. 89-19 - Resolution authorizing the condemnation of property in the Hazel Mill Bridge Replacement Project.

Mayor Bissette said this resolution will authorize the Asheville Housing Authority to condemn, if necessary,

the C. G. Johnson Heirs property on Hazel Mill Road for the Hazel Mill Road Bridge Replacement Project. Offers and negotiations for the acquisition of this property have not resulted in an agreeable settlement and condemnation appears to be the only remaining method of acquisition.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman York, seconded by Vice-Mayor Michalove, Resolution No. 89-19 was unanimously adopted.

Resolution Book No. 17 Page No. 334

B. **Resolution authorizing the condemnation of property in the Murdock Avenue Bridge Project.**

Mayor Bissette said this resolution will authorize the Asheville Housing Authority to condemn, if necessary, the properties at 191 and 200 Murdock Avenue owned by the Congregation Beth Isreal and O'Donald for the Murdock Avenue Bridge Project. Offers and negotiations for the acquisition of this property have not resulted in an agreeable settlement and condemnation appears to be the only remaining method of acquisition.

It was the consensus of Council to postpone action on this resolution until March 14, 1989 in order to obtain additional information about the project.

C. **Resolution authorizing the condemnation of property in the Chestnut Street Bridge Project.**

Mayor Bissette said this resolution will authorize the Asheville Housing Authority to condemn, if necessary, the properties on Broadway owned by Robert C. & Betty Lawrence and Maxine M. Klutts for the Chestnut Street Bridge Replacement Project. Offers and negotiations for the acquisition of this property have not resulted in an agreeable settlement and condemnation appears to be the only remaining method of acquisition.

It was the consensus of Council to postpone action on this resolution until March 14, 1989 in order to obtain additional information about the project.

IV. NEW BUSINESS:

A. **Ordinance No. 1750 - Budget Amendment for Emergency generators for White Fawn and Skyland Towers.**

Mayor Bissette said this budget amendment in the amount of $25,000 and will provide funding to bring new towers at White Fawn and Skyland on line. Generators will provide 24 hour back-up to public safety and commercial usage of sites.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Price moved for the adoption of Ordinance No. 1750. This motion was seconded by Councilman Martin.

Ordinance Book No. 11 Page No. 422

V. CONSENT:

A. **Bids for annual contract for bituminous concrete materials (asphalt).**

SUMMARY: Recommendation for award of a bid for an annual contract for bituminous concrete materials (asphalt) to Asheville Division, APAC- Carolina, Inc., Asheville, North Carolina in the amount of $176,425.00.

B. **Bids for one street sweeper and one street flusher for Public Works Department.**

SUMMARY: Recommendation for award of bid to North Carolina Equipment Company, Charlotte, North Carolina for a 1889 Johnston model 600 Sweeper mounted on a 1988 Ford model Cab and Chassis in the amount of $89,723.00 and to A. E. Finley & Associates, Inc., Charlotte, North Carolina for a 1989 Etnyre model Flusher mounted on a 1989 Ford model Cab and Chassis in the amount of $57,825.00.

Mayor Bissette summarized the consent agenda items and upon motion of Vice-Mayor Michalove, seconded by Councilman Frank, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

ANTI-LITTER CAMPAIGN

Councilman Frank and Councilman Martin reported that they had been to the County Commissioner's meeting this afternoon to solicit their cooperation in an upcoming Anti-Litter Campaign.

Councilman Martin said he would like to get all governmental agencies in Western North Carolina involved in the project for an extensive Anti-Litter Campaign that would benefit not only Asheville but all of Western North Carolina.

RALPH BISHOP - LITTER ON KENILWORTH KNOLL

Ralph Bishop said he had previously told members of Council about the litter on Kenilworth Knoll around the Asheville Racquet Club. He said no one had checked into this complaint

ASHEVILLE SCHOOL BOARD APPOINTMENTS - DEADLINE FOR SUBMITTING APPLICATIONS

Council members agreed to set a deadline of Tuesday, February 21, 1989 at 5:00 p.m. for individuals to submit their applications for possible appointment to the Asheville School Board.

RESOLUTION NO. 89-20 - RESOLUTION AUTHORIZING THE CITY MANAGER OF THE CITY OF ASHEVILLE TO SIGN AN APPLICATION FOR GRANT FUNDS FROM THE NORTH CAROLINA ARTS COUNCIL

Mayor Bissette read a resolution authorizing the City Manager to sign an application for grant funds from the North Carolina Arts Council through the Grassroots Arts Program. He said these funds in the amount of $3,500 will be used to develop a children's Living The Dream Theatre and an adult celebration featuring minority artists in the literary and performing arts. He said in-kind contributions would be from the Parks, Recreation, and Public Facilities Department.

Upon motion Of Councilman Price, seconded by Councilman Martin, Resolution No. 89-20 was unanimously adopted.

Resolution Book No. 17 Page No. 335

CLAIMS - JACK MEADOWS (WATER) - JOYCE ELLIS (SEWER) - VELMA STANLEY (SEWER) - CALVIN PARTON (WATER) - JAMES AGNEW (WATER) - ARDEN TOWN VILLAS (WATER) - ALBERT ANDERSON (WATER) - AUDREY DOTSON (WATER) - NANCY RACE (WATER)

The City Manager presented claims received from Jack Meadows, Joyce Ellis, Velma Stanley, Calvin Parton, James Agnew, Arden Town Villas, Albert Anderson, Audrey Dotson, and Nancy Race.

Mayor Bissette referred the claims to the City Attorney for investigation and recommendation.

LAWSUITS - WAYNE E. WARREN (APPEAL OF CIVIL SERVICE BOARD DECISION) - JAMES LEE HARPER (COMPLAINT FOR RETURN OF PERSONAL PROPERTY)

The City Manager said the City was served with lawsuits involving Wayne E. Warren relative to an appeal of a Civil Service Board

decision and James Lee Harper involving a complaint for return of personal property.

Mayor Bissette referred the lawsuits to the City Attorney for investigation and recommendation.

RESIDENTS OF GRAYSTONE ROAD - REQUEST OF CITY TO TAKE OVER WATER AND SEWER LINES

Residents of Graystone Road off Stratford Road presented members of Council with a petition requesting that the City of Asheville assume responsibility of the water and sewer lines in the area which are presently serviced by the Woodfin Water District.

They indicated that the problems with the Woodfin Water System is as follows:

1. We are given no notice of pressure changes in our water. Low water pressure or no water at all has caused us a lot of inconvenience. High pressure surges recently, on the other hand, has resulted in blown pressure release valves on ten hot water heaters on Graystone Road in a five day time span despite numerous and constant phone complaints to the Woodfin Water Department. No attempt was made in the five day period to correct the problem or prevent further damage by issuing warnings to other customers on the same line. As a result, ten of us on Graystone Road have had plumbing bills, ruined carpets and flooded basements. Charles Anderson of the Woodfin Water District publicly announced that they would assume no responsibility for these damages.

2. We are given no notice of water quality changes or flushings which result in high sediment and iron content in the water. The result to our laundry and appliances is disastrous.

3. Leaks in service lines and water mains are not promptly repaired resulting in wasted water. In the recent pressure surge leaks in two service lines on Stratford Road and Graystone Road went un-corrected for five days despite repeated reports to the Woodfin Water Department about the problem. Thousands of gallons of water ran down Stratford and Graystone Roads. Corrective action came only after threats of legal action if the leaks weren't repaired. This wasted water came through the Woodfin water meter from the Asheville Water System and the cost will eventually have to be picked up by Woodfin customers.

4. Response to complaints is most unsatisfactory. Woodfin always puts the responsibility for the problem back on the customer: it's our location on the system; our hot water heaters are the problem; our plumbers are incompetent or that we have bad pipes. Other excuses we have received are that the weather is too cold, are we sure we are really having these problems and even their response of "I don't know".

5. We are concerned that water testing is not conducted in the proper manner. It is a weakness of the system in North Carolina that each District tests its own water at its own convenience. Independent tests in the last week has shown that Woodfin Water barely meets the minimum standards. Since iron dissipates chlorine, we fear that during times of high iron content, our water may fall below minimum standards.

6. We want fluoride in our water.

7. We feel that the Woodfin Water and Sewer District's financial status should be examined. Is ongoing maintenance and replacement of pipes being neglected and is there a financial plan for present and future problems?

8. Since Woodfin takes the position that they are not responsible for pressure and quality damages, must we assume that they would not be responsible for damages in the future? We must have someone to take responsibility for our water.

Mayor Bissette said it is his understanding that there are approximately 425 City of Asheville residents currently on the Woodfin Water System. He said the Asheville-Buncombe Water Authority would have to be in a position to accept and maintain these lines and the Woodfin Water District would have to agree to transfer the lines. He said the City staff would look into these requests and a report would be given during the Pre-Council work session next week.

Vice-Mayor Michalove requested that Council members be furnished a list of the citizens of Asheville that are currently on the Woodfin Water System.

RALPH BISHOP - FREEDOM OF SPEECH

Ralph Bishop spoke to members of Council relative to his right to address members of Council without interruption.

VII. ADJOURNMENT

Mayor Bissette adjourned the meeting at 4:50 p.m.

MAYOR

CITY CLERK

Tuesday - February 21, 1989 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell Martin and A. Robert York; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Vice Mayor Michalove.

I. PROCLAMATIONS:

A. Presentation of United Way Plaques.

Mayor Bissette said seven City Departments or Divisions have been designated "Fair Share Award" winners by United Way of Asheville and Buncombe County.

John Rukavina, City-wide Coordinator for United Way, said the divisions being recognized today had contributed their "fair share," which is equivalent to at least one (1) hour's pay per month from each employee. He said he believed this reflects the employees' commitment to betterment of the community.

Mayor Bissette presented the plaques to the following employees on behalf of their divisions. Mayor Bissette expressed his appreciation to the employees for their contributions and noted that City Manager Doug Bean will be Chairman for the 1989 United Way Campaign in Asheville and Buncombe County.

1. Bob Wurst of the Audit and Budget Division of the General Administration Department.

2. Rae Ferguson and Steve Evans of the Asheville Police Department.

3. Ray Kisiah of the Recreation Cultural Programs of the Parks, Recreation and Public Facilities Department.

4. Noel Calloway of the Parking Services Division of the Downtown Development Department.

5. Harold Huff and Paul Gilewicz of the Bee Tree Reservoir Division of the Water and Wastewater Services.

II. PUBLIC HEARINGS:

III. OLD BUSINESS:

A. Resolution No. 89-21 - Resolution approving the incorporation of the Town of Fletcher.

Mayor Bissette read the resolution. He said the Fletcher community has requested the Asheville City Council to support their efforts to become an incorporated area.

Vice Mayor Michalove said when representatives first came to City Council several months ago he voted against supporting Fletcher's request for incorporation and that he still cannot support the incorporation. However, he said he would like for the record to reflect the reasons he can't support the incorporation and the concerns he has.

Vice Mayor Michalove said if you look at the area on a map, Asheville is bordered on the North by the Towns of Woodfin and Weaverville, on the East by Swannanoa and Black Mountain, and on the South by Biltmore Forest. He said the philosophy of the State law is that metropolitan and urban needs are different from rural needs. He said in cities throughout the northeast township lines run right up against one another and this is causing jurisdictional problems. He said he felt today's vote on this issue should reflect a look at what lies ahead 10-15 years from now. He cited the Hendersonville Road project and participation in the project by the Town of Biltmore Forest as a prime example of the type of problems the City can run into when more cities are making decisions about roads.

Vice Mayor Michalove said the City limit line as of August 31, 1988 was 2 miles from the Fletcher Community identified for incorporation, and under the present study for annexation currently underway, the City limit line is approximately 1.2 miles from the proposed incorporation. He said Fletcher's proposed boundary would be contiguous to a proposed future City limit line on its northern boundary and a portion of its western boundary would be adjacent to the existing limits at the Asheville Airport. He quoted the following excerpt from the 1980 Joint Annexation Study Commission. "...by both Constitution and Statute, North Carolina has appropriately given preference to expanding cities as opposed to creating new ones. Both discourage incorporating new cities and towns near existing ones...and within five miles of one with over 50,000 population..."

Vice Mayor Michalove said the history of annexation in North Carolina had allowed for orderly growth of municipalities. He said the philosophy of annexation was to provide local governmental services to citizens in areas that are urbanely developed. He said numerous studies have upheld the fact of annexing urban areas as opposed to the creation of smaller

incorporated areas in a major urban environment. He said the law has been tested in a number of court cases and has withstood the scrutiny of numerous study commissions established by the General Assembly since 1959.

Vice Mayor Michalove said the history of incorporation in North Carolina was also addressed in the 1980 Joint Study Commission. He said the report cites the example of growth in the City of Raleigh. He said is 1900 Raleigh's population was 13,600 and today is estimated at 160,000. He said if Raleigh's boundaries had not been expanded over this period and the surrounding area had grown as it has, Raleigh could be encircled today with 12 cities equal to its 1900 size, by 15 cities the size of Garner, or even a larger number of overlapping special districts. He said the Joint Commission concludes on the subject of incorporation by stating "...the State's policy of encouraging annexation - which means enlarging the existing water plant rather than building a new one or enlarging an existing police force rather than creating a new one - seems clearly in the best interest of all citizens when done with the safeguards that are built into North Carolina's annexation statutes..."

Vice Mayor Michalove pointed out annexation across the Henderson County line could result in problems with overlapping legislative districts, judicial districts, school and tax districts. However, he said at the current time, there is not a prohibition of cities crossing county lines and cited several cities that are located in more than one county.

Vice Mayor Michalove said the Fletcher area has developed primarily because of money spent to develop the Airport, MSD sewer facilities, and services of Asheville water to the area.

Vice Mayor Michalove said if you look at terrain of area surrounding Asheville, there are few growth areas we can go into. For these reasons and concerns, he said he could not support the resolution supporting the incorporation of Fletcher.

Councilman Price encouraged those in attendance to continue to work toward improvements and to be active participants with the Land-of-Sky Regional Council.

Councilman Martin said when the issue was first addressed by Council, he had opposed the incorporation is because the City runs the risk of having our growth area to stop where it is now. He said another concern was that Fletcher would be trying to annex into Buncombe County. For this reason, he said the City Council is insisting on a provision in the Fletcher Incorporation Charter that prohibits Fletcher from annexing into Buncombe County at any time in the future or including any territory within the confines of Buncombe County. He said the City of Asheville has no intention of going into Henderson County, but wants the freedom of going to the county line.

Mayor Bissette said it is unrealistic for the City of Asheville to consider annexing across county lines. He wished those in attendance the very best on their incorporation efforts, and said the City of Asheville would be willing to give any help the community may need.

Councilman Bratton said she had supported the incorporation of Fletcher from the beginning. She wished the community well and said she looked forward to working with them and having them as a neighbor. Because of the problem with school district lines, she said it was just not feasible to move across county lines.

Councilman Bratton moved for the adoption of Resolution No. 89-21. This motion was seconded by Councilman York.

Resolution No. 89-21 was adopted on a 6-1 voice vote with Vice Mayor Michalove voting "no".

Mr. Robert G. Parrish, Sr., Chairman of the Fletcher Improvement Committee, thanked Council for adopting the resolution to allow their incorporation. He said Fletcher will have mutual concerns and interests and wants to cooperate with the City of Asheville.

Resolution Book No. 17, Page 336 and 337

IV. NEW BUSINESS:

A. Resolution No. 89-22 - Resolution authorizing the Director of Finance to apply to the Local Government Commission for approval of the City's proposed voted bond financing and to submit such application to the Local Government Commission.

Mayor Bissette said this resolution is the first step to begin the process for the $40,000,000 Water Bond Referendum and will authorize the Director of Finance to apply to the Local Government Commission for approval of the City's proposed voted bond financing and to submit such application to the Local Government Commission.

Mayor Bissette said members of Council were previously furnished copies of the resolution, and it would not be read in its entirety.

Upon motion of Councilman Martin, seconded by Vice Mayor Michalove, Resolution No. 89-22 was unanimously adopted.

Resolution Book 17, Page 338

B. Resolution No. 89-23 - Resolution directing the publication of notice of intention to apply to the Local Government Commission for approval of bonds.

Mayor Bissette said this resolution will direct the City Clerk to publish the notice of intent to apply to the Local Government Commission for the approval of bonds.

Mayor Bissette said members of Council were previously furnished copies of the resolution, and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 89-23 was unanimously adopted.

Resolution Book 17, Page 339

C. Ordinance No. 1751 - Budget ordinance amendment for Downtown Development Budget.

Mayor Bissette said this budget amendment in the amount of $150,000 will increase the Downtown Development Budget to reflect revenues and expenses from 1988 festivals.

Mayor Bissette said members of Council were previously furnished copies of the ordinance, and it would not be read in its entirety.

Councilman York moved for the adoption of Ordinance No. 1751. This motion was seconded by Councilman Martin.

On a roll call vote of 7-0, Ordinance No. 1751 passed on first and final reading.

Ordinance Book No. 11, Page 423

D. Ordinance No 1752 - Budget Ordinance amendment appropriating $23,500 for a grant from the Z. Smith Reynolds Foundation for Victim Assistance.

Mayor Bissette said this budget amendment in the amount of $23,500 is to appropriate grant funds received from the Z. Smith Reynolds Foundation for Victim Assistance.

Mayor Bissette said members of Council were previously furnished copies of the ordinance, and it would not be read in its entirety.

Councilman Frank moved for the adoption of Ordinance No. 1752. This motion was seconded by Councilman Michalove.

On a roll call vote of 7-0, Ordinance No. 1752 passed on first and final reading.

Ordinance Book No. 11, Page 424

E. Ordinance No. 1753 - Budget Ordinance amendment appropriating $20,000 for a grant from the Janirve Foundation for Victim Assistance.

Mayor Bissette said this budget amendment in the amount of $20,000 is to appropriate grant funds received from the Janirve Foundation for Victim Assistance.

Mayor Bissette said members of Council were previously furnished copies of the ordinance, and it would not be read in its entirety.

Councilman Frank moved for the adoption of Ordinance No. 1753. This motion was seconded by Councilman Michalove.

On a roll call vote of 7-0, Ordinance No. 1753 passed on first and final reading.

Ordinance Book No. 11, Page 424

V. CONSENT:

A. Resolution No. 89-24 - Resolution authorizing the City Manager to apply for a victim assistance grant through the Z. Smith Reynolds Foundation.

Mayor Bissette said this grant in the amount of $23,500 will allow a volunteer program to assist victims of crime as they cooperate with the criminal justice system; specifically the Asheville Police Department. This will provide for the establishment of a volunteer program, thereby increasing the number of victims receiving the services in the areas of crisis intervention, information and referral, counseling and criminal justice support and will increase program awareness.

Resolution Book 17, Page 340

B. Resolution No. 89-25 - Resolution authorizing the City Manager to apply for a victim assistance grant through the Janirve Foundation.

Mayor Bissette said this grant in the amount of $20,000 will allow the Asheville Police Department to increase the number of victims receiving the services of the Victim Assistance Program and to improve the quality of service delivery. This will also provide for the professional services of a Victim's Case Manager and a Crime Victim's Counselor on a part-time basis.

Resolution Book 17, Page 341

C. Scheduling of public hearing relative to an UMTA Grant for the Bus Transfer Relocation for March 28, 1989.

Mayor Bissette said a motion is needed to schedule a public hearing on March 28, 1989 relative to an UMTA Grant for the Bus Transfer Relocation.

Mayor Bissette asked the City Manager to provide the Council with a time schedule on the current study and the grant application process for the Bus Transfer facility.

D. Resolution No. 89-26 - Resolution authorizing the City Manager of the City of Asheville to sign an agreement and commitments of site facility use for the nutrition program for older Americans at Reid Memorial, Senior Opportunity, and West Asheville Recreation Centers.

Mayor Bissette said the Buncombe County Council on Aging and the Asheville Parks, Recreation, and Public Facilities Department have been working cooperatively with this program at several recreation centers, and this cooperation has resulted in improved services for the elderly in Asheville and Buncombe County. This resolution will authorize the continuance of this program during the fiscal year of July 1, 1989 through June 30, 1990.

Resolution Book 17, Page 342

E. Resolution No. 89-27 - Resolution calling for a public hearing for the adoption of an ordinance directing the Director of Inspections to demolish the dwelling known as 20 Dallas Street for March 21, 1989.

Mayor Bissette said this resolution will call for a public hearing for the demolition of 20 Dallas Street, which has been totally destroyed by fire.

Resolution Book 17, Page 343 and 343.

F. Scheduling of public hearing relative to rezoning property located at 218 East Chestnut Street, petition of Chris Peterson, for March 21, 1989.

Mayor Bissette said this motion will schedule a public hearing on March 21, 1989, relative to rezoning property located at 218 East Chestnut Street, petition of Chris Peterson.

VI. OTHER BUSINESS:

CLAIMS - SLUDER FURNITURE (WATER), CHARLES WEBB (SEWER), FRANCES SHEARER (WATER), JERRY WISE (WATER), WILLIAM WILCOX (SEWER), JEFFREY SINGLETON (SEWER) AND JOSEPH MOORE (WATER)

The City Manager presented claims received from Sluder Furniture, Charles Webb, Frances Shearer, Jerry Wise, William Wilcox, Jeffrey Singleton and Joseph Moore.

Mayor Bissette referred the claims to the City Attorney for investigation and recommendation.

DAVID ANDERS - PRESIDENT OF ASHEVILLE FIRE FIGHTERS ASSOCIATION - PRESENTATION OF SALARY SURVEY

David Anders, President of the Asheville Fire Fighters Association presented the Mayor and City Council Members with a copy of a salary survey that was conducted by the Association. He asked that Council consider this material as they review the pay study information they will be receiving from Municipal Advisors, Inc.

Ralph Bishop spoke in support of a pay increase for the Fire Fighters.

VII. ADJOURNMENT

Mayor Bissette adjourned the meeting at 5:15 P.M.

MAYOR

CITY CLERK

Tuesday - February 28, 1989 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Norma T. Price, Wilhelmina Bratton, Russell Martin and A. Robert York; Acting Corporation Counsel Patsy Brison; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Mary Lloyd Frank and Corporation Counsel William F. Slawter

INVOCATION

The invocation was given by Councilman Bratton.

APPROVAL OF MINUTES - FEBRUARY 21, 1989 MEETING

Mayor Bissette announced the approval of the minutes of the February 21, 1989 meeting as submitted.

I. PROCLAMATIONS:

II. PUBLIC HEARINGS:

III. OLD BUSINESS:

IV. NEW BUSINESS:

A. **Resolution No. 89-28 - Resolution stating the intent of the City of Asheville to consider the annexation of an area known as Skyland II and fixing the date of a public hearing on the question of annexation.**

Mayor Bissette said pursuant to Part 3 of Article 4A of Chapter 160A of the N. C. General Statutes, the City of Asheville has examined certain areas to determine if they qualify for annexation. By Resolution No. 87-99, adopted June 2, 1987, the City of Asheville identified the Skyland II area as being under consideration for annexation. A report of the plans for extending services to said territory will be available for public inspection in the City Clerk's Office. A legible map of the area to be annexed and a list of persons holding freehold interest in property in the area will be posted in the City Clerk's Office. This resolution will set the date of the public hearing for 4:00 P.M. on April 18, 1989, in the Asheville Civic Center Banquet Room.

By the use of a map, Patty Tallerday with the Planning Department, outlined the area proposed to be annexed.

Upon motion of Councilman Bratton, seconded by Vice-Mayor Michalove, Resolution No. 89-28 was unanimously adopted.

Resolution Book No. 17 Page No. 345 - 346

B. **Resolution No. 89-29 - Resolution stating the intent of the City of Asheville to consider the annexation of an area known as Woods Edge and fixing the date of a public hearing on the question of annexation.**

Mayor Bissette said pursuant to Part 3 of Article 4A of Chapter 160A of the N. C. General Statutes, the City of Asheville has examined certain areas to determine if they qualify for annexation. By Resolution No. 87-99, adopted June 2, 1987, the City of Asheville identified the Woods Edge area as being under consideration for annexation. A report of the plans for extending services to said territory will be available for public inspection in the City Clerk's Office. A legible map of the area to be annexed and a list of persons holding freehold interest in property in the area will be posted in the City Clerk's Office. This resolution will set the date of the public hearing for 4:00 P.M. on April 18, 1989, in the Asheville Civic Center Banquet Room.

By the use of a map, Patty Tallerday with the Planning Department, outlined the area proposed to be annexed.

Upon inquiry of Ralph Bishop, Mayor Bissette said the taxes received from these annexed areas would not be used for downtown revitalization.

Upon motion of Councilman Martin, seconded by Vice-Mayor Michalove, Resolution No. 89-29 was unanimously adopted.

Resolution Book No. 17 Page No. 347 - 348

C. Resolution No. 89-30 - Resolution authorizing the City Manager to enter into an encroachment agreement with Peter D. Williams and Kathy M. Williams for encroachment on Westchester Drive.

Mayor Bissette said certain improvements on property owned by Mr. and Mrs. Williams encroach upon the right-of-way for the City of Asheville on Westchester Drive. This encroachment was made in error and was

unintentional. This resolution will authorize the City Manager to execute an encroachment agreement by and between the City of Asheville and Peter D. Williams and his wife, Kathy M. Williams, for encroachments on the right-of-way for Westchester Drive.

Upon motion of Councilman York, seconded by Councilman Price, Resolution No. 89-30 was unanimously adopted.

Resolution Book No. 17 Page No. 349

D. **Consideration of Preliminary Subdivision Plat - Sherwood Heights Extension - located on Elk Mountain Scenic Highway.**

Mayor Bissette said the Asheville Planning and Zoning Commission on February 12, 1989, reviewed and approved the preliminary plat of Sherwood Heights Extension, subject to the following contingencies:

1. City Council granting a variance from City subdivision street grade standards of 12% to 18%;

2. NCDOT approval of connection to Elk Mountain Scenic Highway;

3. Compliance with Erosion Control Ordinance; and

4. Provision of sufficient water pressure to support fire protection.

Tom Elmore with the Planning Department said this project is a 16 lot subdivision and is an extension of an existing subdivision. He presented maps showing the proposed extension of this subdivision. He said the Planning and Zoning Commission approved the preliminary plat contingent upon the City Council granting a variance from the roadway standards in the subdivision ordinance of a 12% street grade to a 18% grade. He said the Public Works Department reviewed the proposed street and recommended that the 12% street grade be met.

Gary Davis, with McGill Associates, Engineers for the site development, speaking in support of Council granting the street grade variance, showed several maps and outlined alternatives as to the reason the variance is requested. He explained the pros and cons of each alternative that was considered.

Chief John Rukavina, Asheville Fire Department, recommended that the 12% street grade standard be

met. He said the fire trucks are not built to deal with an 18% grade and this would cause a definite problem.

After discussion, Vice-Mayor Michalove moved to table action on the preliminary plat until March 7, 1989 giving members of Council an opportunity to visit the site in question. This motion was seconded by Councilman Price and carried unanimously.

V. CONSENT:

VI. OTHER BUSINESS:

CLAIMS - ROSELLA MANTOOTH (STREETS) - JAMES BLACKBURN (PARKS) - SHARON WOODY (WATER) - MELISSA HARRIS (STREETS)

The City Manager presented claims received from Rosella Mantooth, James Blackburn, Sharon Woody, and Melissa Harris.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP- LITTER ON KENILWORTH KNOLL ROAD

Ralph Bishop again complained to Council about the litter on Kenilworth Knoll Road across the street from McGuffey's and the Sports Club of Asheville.

VII. ADJOURNMENT

Mayor Bissette adjourned the meeting at 5:15 p.m.

MAYOR

CITY CLERK

MICROFILMED BY N.C. DIV. OF ARCHIVES & HISTORY MAR 31 1989 J.G.

Tuesday - March 7, 1989 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Norma T. Price, Wilhelmina Bratton, and Russell Martin; Acting Corporation Counsel Martha McGlohon; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilmen Mary Lloyd Frank and A. Robert York; Corporation Counsel William F. Slawter

INVOCATION

The invocation was given by Councilman Martin.

APPROVAL OF MINUTES - FEBRUARY 28, 1989 MEETING

Mayor Bissette announced the approval of the minutes of the February 28, 1989 meeting.

. PROCLAMATIONS:

A. Proclamation - "Hi-Neighbor Volleyball Week" March 6 - 12, 1989

Mayor Bissette read a proclamation proclaiming the week of March 6 - 12, 1989 as "Hi-Neighbor Volleyball Week."

Ray Kisiah, Director of Parks, Recreation, and Public Facilities reviewed the activities taking place during the Hi-Neighbor Volleyball Tournament Week.

Mayor Bissette presented the proclamation to Donny Luke, President of the Asheville Volleyball Club.

B. Proclamation - Women Voters' Day - March 8, 1989.

Mayor Bissette read the proclamation and presented a copy to Mrs. Shirley Berdie, President of the League of Women Voters.

II. PUBLIC HEARINGS:

III. OLD BUSINESS:

A. Preliminary Subdivision Plat - Sherwood Heights Extension - located on Elk Mountain Scenic Highway.

Mayor Bissette said the Asheville Planning and Zoning Commission on February 12, 1989, reviewed and approved the preliminary plat of Sherwood Heights Extension, subject to the following contingencies:

1. City Council granting a variance from City subdivision street grade standards of 12% to 18%;

2. NCDOT approval of connection to Elk Mountain Scenic Highway;

3. Compliance with Erosion Control Ordinance; and

4. Provision of sufficient water pressure to support fire protection.

Mayor Bissette said this matter was continued from the February 28, 1989 meeting.

Tom Elmore, from the Planning Department, said this plat is still in the preliminary stage and Council's concern at this time is whether or not to grant a variance from city subdivisions street grade standards of 12% to 18%. He said during the Technical Review Committee the Fire Department and Public Works Department recommended that the 12% street grade standard be met due to the steepness and availability to access the site.

Upon inquiry of Council, Mr. Elmore said the Fire Department plans to acquire a four-wheel drive fire truck to access such sites.

Gary Davis, with McGill Associates, Engineers for the site development, said the variance requested is the most technical and reasonable alternative. He said the Public Works Department and the Fire Department did not directly turn down the variance but only expressed concerns about access availability in adverse weather conditions.

Vice-Mayor Michalove moved to approve the requested variance from City subdivision street grade standards of 12% to 18% for the Sherwood Heights Extension subdivision plat as shown in plans presented and dated December, 1988 from McGill Associates provided that the City Attorney can assure that the City would be under no liability by granting the variance. This motion was seconded by Councilman Price and carried on a voice vote of 4-1, with Councilman Martin voting "no". Councilman Martin said in his opinion there would be

potential problems with granting a variance for an 18% slope.

IV. NEW BUSINESS:

A. Resolution No. 89-31 - Resolution confirming and approving action taken by the Director of Finance to apply to the Local Government Commission for approval of the City of Asheville, North Carolina's proposed voted bond financing and to submit such application to the Local Government Commission.

Mayor Bissette said this resolution is required for the $40,000,000 Water Bond Referendum.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Martin, seconded by Councilman Bratton, Resolution No. 89-31 was unanimously adopted.

Resolution Book No. 17 Page No. 350

B. Resolution No. 89-32 - Resolution calling a public hearing on bond order, directing publication of notice of public hearing and filing of a debt statement.

Mayor Bissette said this resolution is required for the $40,000,000 Water Bond Referendum.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

The Bond Order was introduced pursuant to N. C. Gen. Stat. sec. 159-54, a copy of the Bond Order being attached to Resolution No. 89-32.

Upon motion of Vice-Mayor Michalove, seconded by Councilman Bratton, Resolution No. 89-32 was unanimously adopted.

Resolution Book No. 17 Page No. 351

V. CONSENT:

VI. OTHER BUSINESS:

RESOLUTION NO. 89-33 - RESOLUTION APPOINTING MEMBERS TO THE CITIZEN ADVISORY COMMITTEE FOR THE STORMWATER MANAGEMENT PROGRAM

Mayor Bissette presented a resolution appointing Gary Ashburn and Frank Smith as members of the Citizen Advisory Committee for the Stormwater Management Program. The resolution further appoints George Jensen as Chairman of the committee.

Upon motion of Councilman Bratton, seconded by Councilman Price, Resolution No. 89-33 was unanimously adopted.

Resolution Book No. 17 Page No. 352

RESOLUTION NO. 89-34 - RESOLUTION APPOINTING MEMBER TO THE ASHEVILLE FAIR HOUSING COMMISSION

Mayor Bissette presented a resolution appointing Claude Drake as a member of the Asheville Fair Housing Commission.

Upon motion of Councilman Bratton, seconded by Councilman Martin, Resolution No. 89-34 was unanimously adopted.

Resolution Book No. 17 Page No. 353

CLAIMS - LAVONDA WASHBURN (SEWER) - REBECCA BURNETTE (STREETS)

The City Manager presented claims received from Lavonda Washburn and Rebecca Burnette.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

COMMENTS BY CITY EMPLOYEES - CIVIL SERVICE LAW

David Anders, President of the Asheville Firefighters Association, appeared before Council to express their concerns relative to the proposed abolishment of the Asheville Civil Service Law. He said city employees want to keep the Civil Service Law. He said the law is unique and is envied by local government employees all over the State of North Carolina. He said he realizes there are some problems with the law, but these minor problems can be resolved without abolishing the law in its entirety. He said the Civil Service Law provides a check and balance system for officials and employees. He said the City's management staff should work with the employees to correct the problems in the Civil Service Law. He requested that members of Council consider this proposal carefully.

Tom Aardema, President of the Fraternal Order of Police, spoke in opposition to the abolishment of the Asheville Civil Service Law. He said City of Asheville employees are totally opposed to this proposal. He said he felt this matter is being "rushed into" and careful consideration should be given to this matter. He said management staff and employees should be given time to resolve any problems with the Asheville Civil Service Law. He said the problems can be fixed without abolishing the law in its entirety.

Alan O'Donnell, with the Asheville Police Department, said in his opinion the hiring/firing procedures in the Civil Service Law could be streamlined to eliminate so much "red tape" without abolishing the entire Civil Service System.

Bill Costello, retired Police Office since 1985, spoke in opposition to the abolishment of the Civil Service Law. He said he was speaking as a citizen and retired police officer that was under the Civil Service System for 27 years. He said the "Rule of 3" under the Civil Service System gives an individual the desire to work harder to reach the top three. He said he understands that procedures in the system can be improved but "if it is not broke there is no need to fix it. He said everyone should join together to work out the problems within the present Civil Service System. He said if the Civil Service Law is abolished one person would hold a lot of power which could be dangerous. He said the City employees need Council's support for the Civil Service Law.

The City Manager said he agrees with the employees that management and employees should work together and it would be best to discuss these concerns together rather than in a public forum. He said he understands that the employees have a concern for their jobs and are committed to the City of Asheville. He said management needs to hear this type of feed back from the employees. He said he was disappointed that the employees used the political and media route to express their concerns. He said he feels a merit type system is important for professional competence. He said in his opinion it would be better to have the merit system adopted locally rather than as a state law. He said he would meet with the employees to make sure they understand the proposed changes.

Mayor Bissette said he and the Council members understand that this issue is important to the employees as well as the City Manager and Council. He said it is his desire that everyone work together; however, under the law, the Mayor and Council members can not get involved with specific employee matters.

FAIR HOUSING LEGISLATION - REQUEST OF COUNTY OF BUNCOMBE

The City Manager said he had received a request from the Buncombe County Commissioners that the City support an amendment to the Fair Housing legislation to extend the legislation county-wide.

Councilman Price moved to support the County of Buncombe's request to amend the Fair Housing legislation to extend the legislation county-wide. This motion was seconded by Councilman Martin and carried unanimously.

ADJOURNMENT

Mayor Bissette adjourned the meeting at 5:25 p.m.

MAYOR

CITY CLERK

Tuesday - March 14, 1989 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Russell Martin and A. Robert York; Corporation Counsel William F. Slawter; City Manager Douglas C. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Wilhelmina Bratton

INVOCATION

The invocation was given by Councilman York.

APPROVAL OF MINUTES - MARCH 7, 1989

Mayor Bissette announced the approval of the minutes of March 7, 1989 meeting as submitted.

I. PROCLAMATIONS:

A. Proclamation -"School Social Worker's Week" - March 13 - 17, 1989

Mayor Bissette read the proclamation proclaiming March 13 - 17, 1989 as "School Social Worker's Week" and presented a copy to Sally Michalove, with the Asheville City School System.

B. Resolution No. 89-35 - Resolution honoring UNC-A's Basketball Team for winning the Big South Tournament.

Mayor Bissette read a resolution honoring UNC-A's Basketball Team for winning the Big South Tournament in Rock Hill, South Carolina on March 2-4, 1989.

Mayor Bissette recognized Athletic Director Ed Ferrell and Coach Don Doucette from UNC-A.

Upon motion of Councilman Martin, seconded by Councilman York, Resolution No. 89-35 was unanimously adopted.

Resolution Book No. 17 Page No. 374

C. Resolution No. 89-36 - Resolution supporting the Council of Asheville Independent and Parochial Schools.

Mayor Bissette read the resolution supporting the Council of Asheville Independent and Parochial Schools. He recognized the five headmasters from Asheville Country Day, Asheville Christian Academy, Christ School, Asheville School and Asheville Catholic who formed the Council.

Upon motion of Councilman Frank, seconded by Councilman York, Resolution No. 89-36 was unanimously adopted.

Resolution Book No. 17 Page No. 375

II. PUBLIC HEARINGS:

A. Public hearing for the adoption of an ordinance directing the Director of Inspections to demolish the dwelling houses at 93 and 95 Starnes Avenue.

Ordinance No. 1754 - An ordinance directing the Director of Building Inspections to demolish and remove the dwellings known as 93 and 95 Starnes Avenue, Asheville, North Caorlina

Mayor Bissette said this ordinance will direct the Director of Inspections to proceed with the demolition and removal of the dwellings known as 93 and 95 Starnes Avenue, Asheville, North Carolina and otherwise comply with the provisions of the Asheville Minimum Housing Ordinance.

Mayor Bissette opened the public hearing at 4:44 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

The City Attorney outlined the N.C. General Statute that provides authority to cause the demolition of structures that are unfit for human habitation and the procedures to follow under that statute.

The City Attorney presented photographs of 93 and 95 Starnes Avenue which was condemned in September, 1988 and the Finding of Fact and Order for the Director of Building Inspections handed down in January, 1989 after a public hearing was held relative to the dwellings.

David Gaines of 30 Cumberland Avenue, representing the Montford Community Club, spoke in support of the ordinance to demolish 93 and 95 Starnes Avenue. He

suggested that Council produce a pamphlet stating the basic procedures for demolishing substandard dwelling; implement a method for keeping neighborhoods informed of the status of substandard dwellings; appoint a representative of the City for an individual to call about substandard dwellings; implement a method to speed up the demolition process for any buildings that become dangerous; and for the City to show more initiative in finding substandard conditions in the City.

Mayor Bissette said the Council would ask the City Manager to see what can be done about the suggestions offered by Mr. Gaines.

Roland Houser, 324 Oakland Street, Hendersonville, North Carolina, speaking for residents in the Montford Area, encouraged support from Council to get houses that have burned demolished.

Curtis Venable, Pisgah Legal Services, and a resident of Montford Avenue, said the process for demolition of substandard dwellings should be speeded up. He said there are three houses on Cumberland Avenue that have been condemned for over three years and nothing has been done about them. He said in his opinion there is not enough support from the Inspections Department and the residents are not getting the support due.

Scott Dedman, Pisgah Legal Services, and a resident of Cumberland Avenue, supported the ordinance to demolish 93 and 95 Starnes Avenue. He said these steps to demolish the houses should have been taken much earlier.

Mr. Kennedy, resident of Westover Drive, supported the ordinance to demolish 93 and 95 Starnes Avenue. He said other structures in the City need attention as well as abandoned cars. He said demolition is not always the answer to substandard conditions. He offered his time and help in dealing with these problems.

Helen Kennedy, of 221 Westover Drive, said she would like to join the City in efforts to help restore the Montford area.

Evelyn Wyatt said a list of abandoned cars that are on Westover Drive has been given to the City but nothing has been done. She said the ordinances should be enforced.

Lillian Johansen, a resident of the Montford area, said the City should take more initiative in dealing with substandard conditions at an earlier stage than demolition.

Richard Stiles of 34 Courtland Avenue, said the Neighborhood Housing Services now working in the Montford Area should be in a position to help individuals with substandard conditions.

Mayor Bissette said he was very positive about the efforts of the Neighborhood Housing Services in working with the City in the Montford area.

Mayor Bissette closed the public hearing at 5:26 p.m.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Vice-Mayor Michalove moved for the adoption of Ordinance No. 1754. This motion was seconded by Councilman Martin.

On a roll call vote of 6-0, Ordinance No. 1754 passed on first reading.

Vice-Mayor Michalove moved to suspend the rules and proceed to the second reading of Ordinance No. 1754. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1754 passed on second reading.

Vice-Mayor Michalove moved to suspend the rules and proceed to the third reading of Ordinance No. 1754. This motion was seconded by Councilman Frank and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1754 passed on third reading.

Ordinance Book No. 11 Page No. 427-428

B. Public hearing relative to "Bond Order authorizing the issuance of $40,000,000 Water Bonds of the City of Asheville, North Carolina."

Ordinance No. 1755 - Bond order authorizing the issuance of $40,000,000 Water Bonds of the City of Asheville, North Carolina.

Mayor Bissette said this action is required for the $40,000,000 Water Bond Referendum.

Mayor Bissette opened the public hearing at 5:30 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Robert Long of 15 Sareva Place questioned whether or not the $40,000,000 Water Bonds would alleviate any of the problems the 400 City of Asheville residents are having with the Woodfin Water System.

Mayor Bissette said the Water Bonds would not affect these residents and their problems but Council is going to request that the Asheville-Buncombe Water Authority acquire the right to provide water services to these customers if at all possible.

Hazel Fobes ask for pertinent reasons for the Water Bonds. She asked if the Water Bonds would be dealing with distribution and water conservation. She also questioned the $40,000 that is being used for P/R for the Water Bond Issue. She said in her opinion that $40,000 could be used in better ways.

Mayor Bissette said the $40,000 being used for P/R is not public funds but from private donations.

Councilman Price, as a member of the Asheville-Buncombe Water Authority, addressed Ms. Fobes' questions relative to distribution and water conservation. She informed Ms. Fobes that the city staff is willing to give anyone research information relative to the need for the Water Bonds.

John Walsh asked if the $40,000,000 Water Bond Issue would make government entities enforce the DHS requirements for supplying water to individuals.

Mayor Bissette closed the public hearing at 5:44 p.m.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Vice-Mayor Michalove moved for the adoption of Ordinance No. 1755. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1755 passed on first reading.

Vice-Mayor Michalove moved to suspend the rules and proceed to the second reading of Ordinance No. 1755. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1755 passed on second reading.

Vice-Mayor Michalove moved to suspend the rules and proceed to the third reading of Ordinance No. 1755. This motion was seconded by Councilman York and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1755 passed on third reading.

Ordinance Book No. 11 Page No. 429

III. OLD BUSINESS:

A. Continuation of public hearing relative to floodway revisions to Smith Mill Creek.

Mayor Bissette said staff has reviewed the plans and calculations regarding this project. The plans indicate that no increase in flood levels will be caused by the project. Staff recommends approval of the project subject to the following contingencies:
1) Owner to obtain all appropriate Federal, State and local permits; and
2) Owner to meet all FEMA requirements, and to provide FEMA with all documentation and fees necessary pursuant to amending the Floodway Boundary and Floodway Maps, and Flood Insurance Rate Maps to the area affected by the project.

Mayor Bissette said this matter was continued from the February 14, 1989 meeting but since that time it has been determined that this matter is to be reviewed by the Board of Adjustment instead of the City Council.

B. Resolution No. 89-37 - Resolution approving the report of plans for extension of city services into the area proposed for annexation which is generally known as Skyland II.

Mayor Bissette said pursuant to Part 3 of Article 4A of Chapter 160A of the N. C. General Statutes, the City of Asheville has examined certain areas to determine if they qualify for annexation. By Resolution No. 87-99, adopted June 2, 1987, the City of Asheville identified the Skyland II area as being under consideration for annexation. A report of the plans for extending

services to said territory will be available for public inspection in the City Clerk's Office. A legible map of the area to be annexed and a list of persons holding freehold interest in property in the area will be posted in the City Clerk's Office. A public hearing has been scheduled for 4:00 P.M. on April 18, 1989, in the Asheville Civic Center Banquet Room. This resolution will approve the report of plans for the proposed annexation area.

Patty Tallerday with the Planning Department presented the report of plans and highlighted the details of the plan for services in the Skyland II area.

The City Attorney answered questions of Councilman York relative to procedures to be followed as far as private garbage haulers are concerned in the annexation areas.

Upon motion of Councilman Frank, seconded by Councilman Martin, Resolution No. 89-37 was unanimously adopted.

Resolution Book No. 17 Page No. 376

C. **Resolution No. 89-38 - Resolution approving the report of plans for extension of city services into the area proposed for annexation which is generally known as Woods Edge.**

Mayor Bissette said pursuant to Part 3 of Article 4A of Chapter 160A of the N. C. General Statutes, the City of Asheville has examined certain areas to determine if they qualify for annexation. By Resolution No. 87-99, adopted June 2, 1987, the City of Asheville identified the Woods Edge area as being under consideration for annexation. A report of the plans for extending services to said territory will be available for public inspection in the City Clerk's Office. A legible map of the area to be annexed and a list of persons holding freehold interest in property in the area will be posted in the City Clerk's Office. A public hearing has been set for 4:00 P.M. on April 18, 1989, in the Asheville Civic Center Banquet Room.

Patty Tallerday with the Planning Department presented the report of plans and highlighted the details of the plan for services in the Woods Edge area.

Upon motion of Vice-Mayor Michalove, seconded by Councilman Martin, Resolution No. 89-38 was unanimously adopted.

Resolution Book No. 17 Page No. 377

IV. NEW BUSINESS:

A. Resolution No. 89-39 - Resolution setting a special election on the bond order entitled "Bond Order authorizing the issuance of $40,000,000 Water Bonds of the City of Asheville, North Carolina", and directing the publication of notice of a special bond election and notification of the Buncombe County Board of Elections.

Mayor Bissette said this action is a requirement for the $40,000,000 Water Bond Referendum.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 89-39 was unanimously adopted.

Resolution Book No. 17 Page No. 378-379

B. Resolution No. 89-40 - Resolution recommending that the Asheville-Buncombe Water Authority acquire the right to provide water services to the Woodfin Water District customers located within the Corporate Limits of the City of Asheville.

Mayor Bissette said the Woodfin Water and Sewer District supplies water service to approximately 425 customers within the corporate limits of the City of Asheville. A number of these City of Asheville residents have recently approached the City Council about their dissatisfaction with the quality of water service they receive from the Woodfin Water and Sewer District. The City recommends acquiring those customers located within the Corporate Limits of the City of Asheville.

Upon motion of Vice-Mayor Michalove, seconded by Councilman Price, Resolution No. 89-40 was unanimously adopted.

Resolution Book No. 17 Page No. 380

C. Scheduling public hearing relative to rezoning property located at 58, 60 and 62 Livingston Street - Mr. L. B. Jackson, Livingston Medical Partnership - for March 28, 1989.

Mayor Bissette said the Asheville Planning and Zoning Commission on March 1, 1989, reviewed and recommended approval of the request of Mr. L. B. Jackson that Ward 4, Sheet 11, Lots 22, 258 and 289, located at 58, 60 and 62 Livingston Street, be rezoned from R-3 Residential District to OI Office Institutional District.

Councilman Frank moved to schedule the public hearing relative to rezoning property located at 58, 60, and 62 Livingston Street for March 28, 1989.

This motion was seconded by Vice-Mayor Michalove and carried unanimously.

V. CONSENT:

VI. OTHER BUSINESS:

CLAIMS - ROBERT SLUDER (WATER) - MAURICE NOLAND (SEWER)

The City Manager presented claims received from Robert Sluder and Maurice Noland.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

LAWSUITS - DAVID AND LORNA LYNN (WRONGFUL ACT - INSPECTIONS DIVISION

The City Manager said the City was served with a lawsuit involving David and Lorna Lynn (wrongful act - Inspections Division).

Mayor Bissette referred the lawsuit to the Corporation Counsel for investigation and recommendation.

MOTION RELATIVE TO VARIANCE FOR SHERWOOD HEIGHTS EXTENSION SUBDIVISION

The City Attorney said he would have a complete report for members of Council next week relative to the language of the motion for the variance for the Sherwood Heights Extension Subdivision discussed at the March 7, 1989 meeting.

VII. ADJOURNMENT

Mayor Bissette adjourned the meeting at 6:15 p.m.

MAYOR

CITY CLERK

REVISED

Tuesday - March 21, 1989 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell Martin and A. Robert York; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Councilman Price.

APPROVAL OF MINUTES - MARCH 14, 1989 MEETING

Mayor Bissette announced the approval of the minutes of the March 14, 1989 meeting as submitted.

I. PROCLAMATIONS:

A. Proclamation - Post Anesthesia Nurses Day - March 27, 1989 - April 1, 1989

Mayor Bissette read the proclamation and presented copies to Kathy Wilborn, Recovery room Director, Memorial Mission Hospital; Mary Ann Epstein and Terry Scarborough from St. Joseph's Hospital.

B. Proclamation - "Community Development Week" - March 24 - 31, 1989

Mayor Bissette read the proclamation and presented a copy to Marvin Vierra, Community Development Director. Mr. Vierra highlighted the events taking place during "Community Development Week."

II. PUBLIC HEARINGS:

A. Public hearing relative to rezoning property located at 218 East Chestnut Street for Mr. Chris Peterson.

Mayor Bissette said the Asheville Planning and Zoning Commission on February 1, 1989, reviewed the request of Mr. Chris Peterson that Ward 2, Sheet 16, Lot 138, located at 218 East Chestnut Street, be rezoned from R-4 Residential District to CG Commercial General District. The Commission recommended denial of this petition and advised Mr. Peterson of his right to appeal to City Council.

Mayor Bissette opened the public hearing at 4:30 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Carol Albrice, from the Planning Department, reviewed the report from the Planning and Zoning Commission and stated that the Planning and Zoning Commission recommended denial of the rezoning request. She said the Commission felt the rezoning would be an encroachment into residential property and further that the 2010 City Plan reveals that the north side of Chestnut Street be a low density area.

Mrs. Albrice said the Planning Department had received a letter from Mr. Joel Antal, property owner adjacent to Mr. Peterson, opposing the requested rezoning. She said his objections were based on the rezoning would carve the residential district between Madison and Charlotte Street in two places; this would create a public traffic corridor in the middle of a residential neighborhood, creating congestion, noise, danger and pollution; this would also raise the question about the availability of zoning preferences for some, and would belie the very purpose for zoning to begin with; and it would further despoil the architectural and historic ambiance which Asheville must nuture to enhance its uniqueness and tourist appeal.

At the request of Council, Mrs. Albrice read the allowable uses for the Commercial General District. She also reviewed the surrounding zoning and uses stating that the majority of the property in the area is used for office type development and residential.

Chris Peterson, petitioner, spoke in support of the requested rezoning. He presented pictures of the surrounding properties. He said his property is adjacent to Fuddrucker's Restaurant. He said this area shows business and residential working together. He said he proposes to spend in excess of $350,000 on this project which would create more jobs and more tax revenue.

Gene Ellison, Attorney for Chris Peterson, said the City rezoned property for the Fuddrucker's Restaurant and should also consider doing the same for Mr. Peterson, a local creative businessman. He said Mr. Peterson has a sincere interest in growth for the City of Asheville. He said no major objections have been received relative to the requested rezoning. He said his client proposes to construct a restaurant on this property.

Margaret Bridget, a resident of East Chestnut Street, said in her opinion Asheville's Zoning Ordinance needs to be rewritten. She said Commercial General has too broad of uses for this area. She said she would feel more secure if the owner of the property placed restricted uses for the property. She said she would be opposed to rezoning the property Commercial General.

June Grant, a local Realtor, speaking on behalf of Mr. McElduff who resides at 212 East Chestnut, said the rezoning would encroach upon residential property. She said perhaps Mr. Peterson could utilize the Historic Overlay zone. She said if Council rezones this property to Commercial General Mr. McElduff would like for his property to be rezoned to Commercial General.

Upon inquiry of Council, the City Attorney said the property owner has the right to place any kind of restrictive convenants on his own property.

Councilman York said he was concerned about the encroachment into residential property, particularly on Broad Street. However, the general character of the property in the area has changed to a non-residential area. He said it would be unrealistic to think that the property would ever be used for a single family residence and the current structure is not designed for multi-family units. He said a multi-family unit would not be a justifiable investment.

Councilman Bratton said she has some questions about the rezoning but they were legal questions and probably should be discussed in an executive session.

After discussion, Vice-Mayor Michalove moved to continue the public hearing until March 28, 1989 without further advertisement giving Mr. Peterson an opportunity to consider other alternatives and to give members of Council an opportunity to discuss the matter in more depth. This motion was seconded by Councilman Martin and carried unanimously.

Councilman Price suggested that in considering alternatives that the petitioner consider the possibility of a residential buffer along Broad Street.

B. Public hearing relative to an ordinance directing the Director of Inspections to proceed with the demolition and removal of the dwelling known as 20 Dallas Street or otherwise comply with the provisions of the Housing Code of the City of Asheville.

Ordinance No. 1756 - Ordinance directing the Director of Building Inspections to demolish and remove the

dwelling known as 20 Dallas Street, Asheville, North Carolina.

Mayor Bissette said this ordinance will direct the demolition of 20 Dallas Street which has been totally destroyed by fire.

Mayor Bissette opened the public hearing at 5:20 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication showing notification in the Asheville Times and the Sarasota Herald-Tribune in Tampa, Florida.

The City Attorney presented pictures of the dwelling known as 20 Dallas Street which was destroyed by fire in the latter part of 1988. He said all administrative hearings have been held and no steps have been taken by the owner to repair or demolish the dwelling.

Members of Council expressed that they would like to see a process implemented to take care of such dwellings in a shorter time period.

Mayor Bissette closed the public hearing at 5:26 p.m.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Price moved for the adoption of Ordinance No. 1756. This motion was seconded by Councilman Martin.

On a roll call vote of 7-0, Ordinance No. 1756 passed on first reading.

Vice-Mayor Michalove moved to suspend the rules and proceed to the second reading of Ordinance No. 1756. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1756 passed on second reading.

Vice-Mayor Michalove moved to suspend the rules and proceed to the third reading of Ordinance No. 1756. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1756 passed on third reading.

Ordinance Book No. 11 Page No. 430-431

III. OLD BUSINESS:

IV. NEW BUSINESS:

A. **Ordinance No. 1757 - Ordinance amending Section 28-52 (b) of Chapter 28 of the Code of Ordinances of the City of Asheville restricting truck traffic on Glendale Avenue between McArthur Lane and Fairview Road.**

Mayor Bissette said this action will include a portion of Glendale Avenue, between McArthur Lane and Fairview Road, in the ordinance regulating truck traffic on certain residential streets.

Vice-Mayor Michalove moved for the adoption of Ordinance No. 1757. This motion was seconded by Councilman Frank.

On a roll call vote of 7-0, Ordinance No. 1757 passed on first reading.

Vice-Mayor Michalove moved to suspend the rules and proceed to the second reading of Ordinance No. 1757. This motion was seconded by Councilman Frank and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1757 passed on second reading.

Vice-Mayor Michalove moved to suspend the rules and proceed to the third reading of Ordinance No. 1757. This motion was seconded by Councilman Frank and carried on a voice vote of 6-1 with Mayor Bissette voting "no."

On a roll call vote of 7-0, Ordinance No. 1757 passed on third reading.

Ordinance Book No. 11 Page No. 432

B. **Resolution No. 89-41 - Resolution approving and endorsing the Asheville-Buncombe Water Authority Water System Master Plan for water improvements.**

Mayor Bissette said the Asheville-Buncombe Water Authority was formed and charged with certain duties and responsibilities by an Agreement between the City of Asheville and the County of Buncombe on October 29, 1981 and supplemented on August 18, 1987. This agreement states that "the Authority shall be responsible for developing a Master Plan for capital improvements and further states that "said plan shall be approved by the Authority acting as a body with one vote, the County Commissioners acting as a body with one vote, and the City Council acting as a body with one vote, each meeting in formal session and upon the affirmative vote of two of the three bodies."

Councilman Price noted that the Asheville-Buncombe Water Authority passed a similar resolution at their meeting this morning.

Upon motion of Vice-Mayor Michalove, seconded by Councilman Frank, Resolution No. 89-41 was unanimously adopted.

Resolution Book No. 17 Page No. 381- 382

C. **Bids for one mobile stage for Parks, Recreation and Public Facilities Department.**

Mayor Bissette said staff has recommended the award to the low bidder, Wenger Corporation, Owatonna, Minnesota, in the amount of $44,834.00.

A copy of the bid summary is available in the City Clerk's Office.

Councilman Price moved to accept the bid of Wenger Corporation for one (1) mobile stage in the amount of $44,834.00. This motion was seconded by Vice-Mayor Michalove and carried unanimously.

V. CONSENT:

VI. OTHER BUSINESS:

ASHEVILLE SCHOOL BOARD - NOTICE - INDIVIDUALS TO BE CONSIDERED FOR APPOINTMENT

Mayor Bissette said pursuant to N. C. Gen. Stat. sec. 143-318.11, notice is given that the following persons are under consideration by the City Council of the City of Asheville for appointment to the Asheville City School Board:

Charlotte V. Carlisle - J. R. Downs - Lee Loy - Carol Matthews - Dana Noblitt Sutton - J. Lyle West - John Quigley - Eleanor H. Franklin - Harriett N. Haith

Mayor Bissette said Council would be considering these appointments at next week's meeting.

RESOLUTION NO. 89-42 - RESOLUTION OF INTENT TO CONSIDER AN ORDINANCE AMENDING THE CHARTER OF THE CITY OF ASHEVILLE TO PROVIDE FOR NONPARTISAN ELECTIONS WITH TWO OR FOUR YEAR STAGGERED TERMS AND CALLING FOR A PUBLIC HEARING THEREON

Mayor Bissette read the resolution which scheduled the public hearing for 4:00 p.m. on Tuesday, April 4, 1989 in the Council Chambers.

Upon motion of Vice-Mayor Michalove, seconded by Councilman York, Resolution No. 89-42 was unanimously adopted.

Resolution Book No. 17 Page No. 383 - 384

CLAIMS - VIRGINIA JONES (WATER) - MICHELLE BROWN (PARKING) - ALLEN OWENS (WATER)

The City Manager presented claims received from Virginia Jones, Michelle Brown, and Allen Owens.

Mayor Bissette referred the claims to the City Attorney for investigation and recommendation.

GROUP DEVELOPMENT - OVERLOOK VILLAGE SHOPPING CENTER AMENDMENT

Carol Albrice, from the Planning Department, said the Asheville Planning and Zoning Commission at a special meeting on March 16, 1989 reviewed and recommended approval of an amendment to the site plan of Overlook Village Shopping Center on Tunnel Road. She said it is now Council's decision to accept the recommendation of the Planning and Zoning Commission or to schedule a public hearing relative to the amendment.

Mrs. Albrice reviewed the original motion to approve the Overlook Village Shopping Center with a list of contingencies. She said all the contingencies have been met as far as possible. She reviewed the requested changes to the original plans for the shopping center indicating that the major revision is the redesign of the proposed shops. She said the revised plans show the building to be built over a 40' Haw Creek Sewer Line. She said the Water and Sewer Department has indicated that this would be acceptable with an agreement with the owner for the repair of the sewer line if the need arises.

After discussion Council decided not to take action on the amendment indicating acceptance of Planning and Zoning's recommendation. However, Council did request that the Developer furnish the City of Asheville with a letter from the Engineers stating that the culvert would be inspected after the initial installation and that the culvert would be periodically monitored and that the inspection reports would be furnished to the City.

RESOLUTION NO. 89-43 - RESOLUTION APPOINTING MEMBER TO THE DOWNTOWN COMMISSION

Councilman Price moved for the adoption of a resolution appointing Don Martell as a member of the Asheville

Downtown Commission to serve until June 30, 1990. This motion was seconded by Councilman Bratton and carried unanimously.

Resolution Book No. 17 Page No. 385

RALPH BISHOP - LOTTERY SALES IN THE CITY - SELECTION OF NEW POLICE CHIEF

Ralph Bishop spoke to members of Council relative to the lottery sales in the City of Asheville and the process for the selection of the new Police Chief.

VII. ADJOURNMENT

Mayor Bissette adjourned the meeting at 6:25 p.m.

MAYOR

CITY CLERK

Tuesday - March 28, 1989 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell Martin and A. Robert York; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Councilman Bratton.

I. PROCLAMATIONS:

A. Proclamation - "Trout Day" - April 1, 1989

Mayor Bissette read the proclamation and presented a copy to Rod Baird with Trout Unlimited.

II. PUBLIC HEARINGS:

A. Public hearing relative to UMTA Grant for Bus Downtown Transfer Site.

Resolution No. 89-44 - Resolution authorizing the filing of an application with the Department of Transportation, United States of America, for a grant under the Urban Mass Transportation Act of 1964, as amended

Resolution No. 89-45 - Resolution authorizing the filing of an application with the North Carolina Department of Transportation for state funds in support of the Planning Project.

Mayor Bissette said this public hearing will allow for public comments on an application to request funding from federal and state governments for the planning, engineering, and architectural design of the new downtown transit transfer site.

UMTA - $40,000
NCDOT- 5,000
Asheville 5,000

Total $ 50,000

Mayor Bissette opened the public hearing at 4:35 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Carl Owenby, with the Planning Department and the Asheville Transit Authority said this application is for $40,000 in federal funds and $5,000 of state funds for the new downtown transit transfer site.

Bob Carr, Chairman of the Downtown Commission, said the Downtown Commission and the Asheville Transit Authority has been working on preliminary plans for the new site on South Lexington Avenue. He said with the money already appropriated preliminary drawings have been prepared by Spaceplan architects, for the new site to be located on South Lexington Avenue. He said the property has been appraised at $90,000. He said a Steering Committee has met twice for a needs assessment. He said a street survey has been taken as well as a ridership survey.

Mr. Carr said a cost estimate to rehabilitate Pritchard Park was received in the amount of $1.2 million. He said the purpose of moving the current transit transfer site is to rehabilitate the Park and encourage reinvestment in the downtown area.

Mr. Carr said the drawings for the new downtown transit transfer site indicates greatly improved amenities.

Carroll Hughes, with Spaceplan, said his staff has designed a preliminary site plan for the new transfer station as well as estimated costs.

Staff from Spaceplan presented the preliminary drawings for the new station as well as estimated costs.

A discussion was held relative to security for the new site as well as structure schedule.

Barry Olin and Dave Poteet, downtown merchants, spoke in favor of moving the transfer site to South Lexington Avenue.

Mark Rosenstein, Chairman of the Downtown Association, spoke in favor of moving the site to encourage development in downtown.

Tom Tomlin, Chairman of the Asheville Transit Authority, said he felt the South Lexington Avenue site is the best option. He expressed concerns about security for the station.

After discussion, Mayor Bissette closed the public hearing at 5:25 p.m.

Upon motion of Councilman Bratton, seconded by Councilman Price, Resolution No. 89-44 was unanimously adopted.

Resolution Book No. 17 - Page 386 - 387

Upon motion of Councilman Bratton, seconded by Councilman Price, Resolution No. 89-45 was unanimously adopted.

Resolution Book No. 17 - Page 388

B. Public hearing relative to rezoning property located at 58, 60, and 62 Livingston Street - Mr. L. B. Jackson, Livingston Medical Partnership.

Ordinance No. 1758 - An ordinance amending Ordinance No. 322, known as "the Zoning Ordinance for the City of Asheville" as amended rezoning property located at 58, 60, and 62 Livingston Street for Mr. L. B. Jackson.

Mayor Bissette said the Asheville Planning and Zoning Commission on March 1, 1989, reviewed and recommended approval of the request of Mr. L. B. Jackson that Ward 4, Sheet 11, Lots 22, 258 and 289, located at 58, 60 and 62 Livingston Street, be rezoned from R-3 Residential District to OI Office Institutional District.

Mayor Bissette opened the public hearing at 5:26 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Carol Albrice, from the Planning Department, said the Planning and Zoning Commission had recommended approval of the request to rezone three parcels. She outlined the zoning of the surrounding properties. She said the rezoning would be in accordance with the comprehensive plan and Livingston Street could adequately handle the medical facility. She said these parcels are owned by the Housing Authority and they are in support of the rezoning.

Carroll Hughes appeared on behalf of the petitioner in support of the rezoning stating that the use of this property is a continuation of what is being developed in this particular area.

Mayor Bissette closed the public hearing at 5:35 p.m.

Mayor Bissette said the ordinance was previously presented to members of Council and would not be read in its entirety.

Councilman Bratton moved for the adoption of Ordinance No. 1758. This motion was seconded by Councilman Martin.

On a roll call vote of 7-0, Ordinance No. 1758 passed on first reading.

III. OLD BUSINESS:

A. Continuation of a public hearing relative to an ordinance relative to rezoning property located at 218 East Chestnut Street for Mr. Chris Peterson.

Mayor Bissette said the Asheville Planning and Zoning Commission on February 1, 1989, reviewed the request of Mr. Chris Peterson that Ward 2, Sheet 16, Lot 138, located at 218 East Chestnut Street, be rezoned from R-4 Residential District to CG Commercial General District. The Commission recommended denial of this petition and advised Mr. Peterson of his right to appeal to City Council.

Upon request of the City Attorney, Councilman Bratton moved to go into executive session to discuss a legal matter relative to the rezoning of Mr. Peterson's property. This motion was seconded by Councilman Frank and carried unanimously.

Robert Dungan, 89 N. Liberty Street, spoke in opposition to the rezoning stating that this would be an encroachment into a residential area. He said any conditions the owner places on the property could be construed as contract zoning and would not be binding on a new owner. He said he felt this was a backyard approach for the destruction of a residential neighborhood.

Wallace Patterson, architect and resident in the area, spoke in opposition to the rezoning. He also presented a letter from Dr. Bates of 84 N. Liberty Street in opposition to the rezoning.

Neal Grant, of 76 N. Liberty Street, spoke in opposition to the rezoning stating that the area is designed for single family residential activity.

Susan Patterson also spoke in opposition to the rezoning.

Jean Warner spoke in opposition to the rezoning stating that the Commercial General zone would have a negative impact on the neighborhood. She also presented letters from Mary Carter, Bridget, Hendrix, and Hunter, residents in the area who are opposed the rezoning.

Marion Gebhardt of 81 N. Liberty Street spoke in opposition to the rezoning.

W. A. McElduff, of 218 E. Chestnut Street said if the Peterson property is rezoned he would also like his adjacent property rezoned.

Chris Peterson, petitioner for the rezoning, said his plans for the property is a restaurant adjacent to Fuddrucker's Restaurant. He said the neighborhood needs rehabilitating and he intends to keep the neighborhood historic. He said he proposes to invest over $350,000 in this property. He said this area is a commercial area and should not affect the residents on N. Liberty Street.

Larry Holt said he was rehabilitating 166 E. Chestnut Street and he is in opposition to the rezoning.

Gene Ellison, attorney for the petitioner, spoke in support of the rezoning. He said Mr. Peterson's plans for the property will not interfere with the residents on N. Liberty Street. He asked that if Council desires not to rezone the property that the city staff consider a conditional use permit for Mr. Peterson that would allow for a restaurant.

Mayor Bissette closed the public hearing at 6:25 p.m.

Mayor Bissette said members of Council turned down a request to rezone this property about one year ago. He said members of Council feel the Commercial General District is too broad of a zone for this area and would offer an encroachment into a residential area. He said Council does feel Mr. Peterson's proposal does have merit and that if the rezoning is not allowed that the city staff would work with Mr. Peterson for an alternative.

Councilman Price moved to accept the Planning and Zoning Commission's recommendation to deny the request

to rezone property located at 218 East Chestnut Street to Commercial General. This motion was seconded by Councilman Bratton and carried unanimously.

IV. NEW BUSINESS:

V. CONSENT:

A. Resolution No. 89-46 - Resolution authorizing the Mayor of the City of Asheville to execute a Drug-Free Work Place Act certification.

SUMMARY: The UMTA is requesting that all recipients of Federal funds must certify that they will comply with the regulations on a drug-free workplace.

Resolution Book No. 17 Page No. 389

B. Resolution No. 89-47 - Resolution authorizing the Mayor to sign an agreement with Buncombe County for Consolidated Transportation Services under Section 504 - Handicap Program.

SUMMARY: By agreement, the City would consolidate its funding for handicapped transportation services with Buncombe County. The County will provide all specialized transportation services under the UMTA 504 Handicap Program.

Resolution Book No. 17 Page No. 390

C. Sale of Disposal Parcel 49 in the East End/Valley Street Community Improvement Program.

SUMMARY: The Housing Authority has tentatively accepted a bid from Ms. Tabby Mpofu for Disposal Parcel 49 of the East End/Valley Street Community Improvement Program. Ms. Mpofu plans to build a 4 bedroom residence with the assistance of WNC Habitat for Humanity. The lot purchase will be under the Incentive Housing ($1.00 lot) program.

Upon motion of Vice-Mayor Michalove, seconded by Councilman Martin, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

Resolution No. 89-48 - Resolution appointing members to the Asheville School Board. (Harriett Haith, Carol Mathews, and J. R. Downs)

Mayor Bissette said there are three (3) member's terms on the Asheville School Board expire April 1, 1989. He read a resolution reappointing Harriett Haith and appointing Carol Mathews and J. R. Downs as members of the Asheville School Board to serve a four (4) year term, term expiring April 1, 1993.

Upon motion of Councilman Bratton, seconded by Councilman Frank, Resolution No. 89-48 was unanimously adopted.

Resolution Book No. 17 Page No. 391

At the request of Bob Brown, Mayor Bissette reviewed the resumes of Carol Mathews and J. R. Downs.

SHERWOOD HEIGHTS EXTENSION SUBDIVISION - VARIANCE GRANTED

In order to clear up a motion made on March 14, 1989 relative to the Sherwood Heights Extension Subdivision and a request for a street grade variance from the ordinance, Councilman Price moved to approve the request for a variance for a street grade of 18% due to the lack of feasible alternatives and due to the fact that similar streets are throughout the City. This motion was seconded by Councilman York and carried unanimously.

CLAIMS - ANN DEHART (STREETS) - JOHN MOYER (WATER) - CHRISTINE STARR (WATER) - WILLIAM BRADLEY (POLICE) - GARY CALDWELL (WATER)

The City Manager presented claims received from Ann DeHart, John Moyer, Christine Starr, William Bradley, and Gary Caldwell.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

LAWSUITS - DAN C. WORLEY (APPEAL OF CIVIL SERVICE DECISION)

The City Manager said the city was served with a lawsuit on March 20, 1989 involving Dan C. Worley (appeal of Civil Service decision).

VII. ADJOURNMENT

Mayor Bissette adjourned the meeting at 6:45 p.m.

MAYOR

CITY CLERK

Tuesday - April 4, 1989 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell Martin and A. Robert York; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Councilman Bratton arrived at the meeting at 5:00 p.m.

Councilman Frank left the meeting at 5:55 p.m.

Absent:

INVOCATION

The invocation was given by Vice-Mayor Michalove.

APPROVAL OF MINUTES - MARCH 28, 1989

Mayor Bissette announced the approval of the minutes of the March 28, 1989 meeting as submitted.

I. PROCLAMATIONS:

A. Proclamation - "Volunteer Week" - April 9-15, 1989

Mayor Bissette read the proclamation and presented a copy to Harriett Winner, Jean Moore, JoAnn Myers, and Bruce Peterson with the Volunteer Service Bureau.

B. Proclamation - "Victim Rights Week" - April 9-15, 1989

Mayor Bissette read the proclamation. He said a copy would be forwarded to Will Annarino and Jan Phillips with the Asheville Police Department, Victim Assistance Division.

C. Resolution No. 89-49 - Resolution commending Asheville High School for its participation in the International Exchange Program and recognizing the foreign exchange students and teacher from Japan and other exchange students from Ghana and Peru

Mayor Bissette read the resolution.

Upon motion of Councilman Price, seconded by Councilman Martin, Resolution No. 89-49 was unanimously adopted.

Resolution Book No. 17 Page No. 392

Mr. O. L. Sherrill, Principal of Asheville High School introduced the teacher from Kofu High School in Japan.

Mayor Bissette presented each student with a welcome letter and a copy of the resolution.

II. PUBLIC HEARINGS:

A. Public hearing relative to an ordinance amending the Charter of the City of Asheville to provide for nonpartisan elections with two or four year staggered terms.

Mayor Bissette said the North Carolina General Statute sec. 160A-101 provides that any city may change various aspects regarding its form of government, including the manner in which municipal primaries and elections are conducted. Municipal elections in the City of Asheville are currently conducted on a partisan basis and City Council members serve concurrent two year terms. The City Council intends to consider an ordinance amending the Charter to provide for nonpartisan elections.

Mayor Bissette opened the public hearing at 4:35 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

The City Attorney outlined the process Council would have to follow in order to change the method in which municipal primaries and elections are conducted. He also explained the alternatives members of Council would have in deciding which method to use for the elections.

Rendell Davis, speaking on behalf of the Kenilworth Forest Homeowners Association, said the Executive Committee of the association met and discussed the proposed amendment for conducting municipal elections. He read a prepared statement opposing nonpartisan elections.

Louis Alexander, 125 Old Charlotte Highway, read a prepared statement stating that he did not wish to take a position on this issue. However, he said if either party comes out with party platforms that address a specific issue concerning this city he would favor partisan election of City Council and Mayor, but if neither party comes out with a platform that addresses a specific issue concerning this city then he would be against partisan election of City Council and the Mayor.

Ben McKenzie, a local businessman, spoke in favor of nonpartisan elections. He said he felt this method would enlarge the pool of men and women interested in serving on the City Council.

Harold Holcombe, a local businessman, spoke in favor of nonpartisan elections. He said he felt members of Council should concentrate on particular issues rather than on party politics.

Bob Lawrence, a local businessman, spoke in favor of nonpartisan elections. He said he also felt members of Council should address particular issues rather than party politics and they should work together on these issues.

George Tisdale of 65 Shorewood Drive and a former members of Council, spoke in opposition to nonpartisan elections. He said this method of elections had been tried once before and it did not work. He said a nonpartisan government would be laying the seeds for a clique-type government. He said even if the method of elections is changed he had never really met someone who is nonpartisan.

Susan Patterson of 70 N. Liberty Street, speaking on behalf of the League of Women Voters said a Task Force of their organization conducted a study on partisan and nonpartisan elections. She requested that the League of Women Voters be included in discussions relative to this proposed amendment.

Mel Thomason, a local businessman, spoke in support of nonpartisan elections. He said party labels obscures positions and puts forth elements of doubt.

Albert Sneed, Attorney, 11 N. Market Street, spoke in favor of nonpartisan elections. He said in his opinion there has been a breakdown of party systems in the last ten to fifteen years. He said he felt nonpartisan elections would allow more people willing to run for office to run. He said many individuals have suffered because of party affiliations. He said he would not be in favor of district representations or staggered terms at this time. He said Council should address one issue at a time.

Larry McDevitt, resident of Asheville and former Mayor of Asheville, spoke in favor of nonpartisan elections. He said this would encourage more people to run and that the partisan system seems to be discouraging rather than encouraging participation. He said having partisan elections suggests to the public that there is some partisan agenda to follow and that is misleading. He said neither party has articulated a philosophy of local government that divides them. He said the terms of office was not a concern to him but four years might be a better term. He suggested that Council not go to district representation at this time. He said he felt nonpartisan elections would take care of district representation.

Eugene Ochsenreiter, resident of Asheville and former Mayor of Asheville, spoke in opposition to nonpartisan elections. He said he felt political contacts are very important in dealing with specific issues concerning the City. He said it would be dangerous to change to nonpartisan elections at this time. He said political parties help stimulate interest and participation in elections and that the existing system should remain.

Councilman Bratton arrived at the meeting at 5:00 p.m.

Richard Wood, a local attorney and former Mayor of Asheville, said in his opinion the Council takes a nonpartisan approach to issues but he would not be in favor of nonpartisan elections. He said interest is low in elections right now and political parties help to stimulate interest. He said someone with no conduit for running for office would have a tough proposition particularly with minorities. He said in his opinion the city is small enough and broad based that a ward or district system would not be warranted. He said the existing system should remain.

Allene Highsmith, of Reynolds Place, said changing to nonpartisan elections would be a charade and that partisan politics is a privilege Americans should cherish. She said you can not take politics out of politics.

Gene Ellison, a local attorney, said he would like to hear each Council members views on this issue. He said he would also like to know the purpose for changing the system. He said in his opinion Council should consider changing to district representation. He said you can not change the name and think you are changing the game that there is no way to take politics out of politics. He said district representation would be fair instead of nonpartisan elections. He said party politics provide for a check and balance society.

Manuel Kutlokis of Pearson Drive spoke in opposition to nonpartisan elections. He said members of Council are only effective when politics are involved. He said the Democratic party has done much for individual members of Council and the City of Asheville.

Ernie Thurston of Panola Street spoke in opposition to nonpartisan elections. He said partisan elections help to build voter participation. He said many times partisan elections are the only time an individual

citizen is interested in a particular person running for office. He said Council should consider district representation rather than nonpartisan elections. He said if Council is serious about changing this method they should not make a decision on their own for such a controversial issue but to leave that decision to the voters in a referendum.

Florence Ryan of 301 E. Chestnut spoke in opposition to nonpartisan elections. She said this method was tried in 1933-35 and did not work.

Steve Welborn, of the NAACP, said he felt Council should consider district representation rather than nonpartisan elections.

Ralph Bishop spoke in opposition to nonpartisan elections. He said the system should remain partisan.

Mayor Bissette presented letters from the Democratic Women's Club and Mr. and Mrs. Ed James in opposition to nonpartisan elections.

Mayor Bissette commented that many people fear party affiliations. He said members of Council would be considering this proposal very carefully during the next week.

Councilman Price said she would strongly oppose members of Council making a decision on their own for nonpartisan elections.

Mayor Bissette closed the public hearing at 5:51 p.m. and said Council would consider this matter again at next week's meeting.

III. OLD BUSINESS:

A. Ordinance No. 1758 - Second reading of Ordinance rezoning property located at 58, 60, and 62 Livingston Street - Mr. L. B. Jackson, Livingston Medical Partnership.

Mayor Bissette said the Asheville Planning and Zoning Commission on March 1, 1989, reviewed and recommended approval of the request of Mr. L. B. Jackson that Ward 4, Sheet 11, Lots 22, 258 and 289, located at 58, 60 and 62 Livingston Street, be rezoned from R-3 Residential District to OI Office Institutional District. A public hearing was held on March 28, 1989, and this ordinance passed on first reading.

Mayor Bissette said this ordinance was previously read on first reading and would not reread in its entirety.

Ken Jackson, representing the Livingston Medical Partnership, requested that Council conduct the second and third reading of the ordinance at today 's meeting.

Upon inquiry of Council, Larry Holt, Deputy Executive Director of the Housing Authority, said the Housing Authority is the current owners of the three of the parcels involved in this project and the Housing Authority is in favor of the rezoning and the process being completed today.

Councilman Frank left the meeting at 5:55 p.m.

On a roll call vote of 7-0, Ordinance No. 1758 passed on second reading.

Vice-Mayor Michalove moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1758. This motion was seconded by Councilman Martin and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1758 passed on third and final reading.

Ordinance Book No. 11 Page No. 433

IV. NEW BUSINESS:

A. Ordinance No. 1759 - Ordinance amending Section 28-52 (b) of Chapter 28 of the Code of Ordinances of the City of Asheville prohibiting truck traffic on Farrwood Avenue between Merrimon Avenue and Kimberly Avenue.

Mayor Bissette said this ordinance will include Farrwood Avenue, between Merrimon Avenue and Kimberly Avenue, in the ordinance regulating truck traffic on certain residential streets.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Price moved for the adoption of Ordinance No. 1759. This motion was seconded by Vice-Mayor Michalove.

On a roll call vote of 7-0, Ordinance No. 1759 passed on first reading.

Vice-Mayor Michalove moved to suspend the rules and proceed to the second reading of Ordinance No. 1759. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1759 passed on second reading.

Vice-Mayor Michalove moved to suspend the rules and proceed to the third reading of Ordinance No. 1759. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1759 passed on third and final reading.

Ordinance Book No. 11 Page No. 434

V. CONSENT:

A. Resolution No. 89-50 - Resolution authorizing the Mayor and City Clerk to execute a municipal agreement with the North Carolina Department of Transportation for the Hominy Creek Bridge Project.

Mayor Bissette said this resolution will authorize the Mayor to execute a Municipal Agreement between the City of Asheville and the N. C. Department of Transportation for the purpose of making improvements to the Hominy Creek Bridge on N. C. 191. The City will be responsible for relocation or adjustment of any municipally-owned utilities, exercise its rights to bring about any relocation or adjustment of franchised, private or publicly-owned utilities, and enforce all traffic operating controls established by the N. C. Department of Transportation.

Upon motion of Vice-Mayor Michalove, seconded by Councilman Martin, Resolution No. 89-50 was unanimously adopted.

Resolution Book No. 17 Page No. 393

VI. OTHER BUSINESS:

CARNIVAL - NEW ASHEVILLE SPEEDWAY - AMBOY ROAD - APRIL 6-15, 1989

Pursuant to the privilege license ordinance, Councilman Martin moved to approve a request of Nova Expositions for a carnival to be located at New Asheville Speedway on Amboy Road for April 6 - 15, 1989. This motion was seconded by Councilman Bratton and carried unanimously.

Robert McCurran, with Nova Expositions, said the hours of operation would be Monday through Friday from 6 p.m. to 11 p.m. and 1 p.m. to 12 p.m. on weekends. He said Nova Expositions would comply with all ordinances of the City of Asheville.

AUDIT SELECTION - ARTHUR YOUNG, GREENVILLE, SOUTH CAROLINA

Councilman York said he and Councilman Martin had been meeting with the City Manager and the Audit and Budget Department reviewing auditing firms. He said the they had reviewed ten auditing firms and is recommending Council's acceptance of the firm of Arthur Young from Greenville, South Carolina for a period of three years.

Councilman York moved to accept the firm of Arthur Young from Greenville, South Carolina as the City of Asheville auditor for a period of three years and that the Mayor be authorized to sign the contract on behalf of the City subject to the City Attorney's review. This motion was seconded by Councilman Martin and carried unanimously.

CLAIMS - RONALD BENNETT (WATER) - KAREN WELLS (SEWER) - SHEILA PENLAND (WATER) - HILLIARD ARROWOOD (SEWER) - JEFFREY JONES (POLICE) - JEREMY WILSON (SEWER) - MARTHA WATKINS (SEWER)

The City Manager presented claims received from Ronald Bennett, Karen Wells, Sheila Penland, Hilliard Arrowood, Jeffrey Jones, Jeremy Wilson, and Martha Watkins.

Mayor Bissette referred the claims to the City Attorney for investigation and recommendation.

REQUEST FOR SIGNS

Councilman Bratton asked the City Manager to look into the feasibility of installing a sign in the parking garage on Rankin Avenue coming onto College Street to turn right.

Upon inquiry of Councilman Price, the City Manager said a request was made of the state to install a lighted sign coming from the Airport onto I-26. He said the state approved the request; however, it is now in the federal process since this is a federal highway.

ROUND TABLE DISCUSSION - DRUG PROBLEMS

Mayor Bissette announced a Round Table Discussion to be held relative to drug problems on April 28, 1989 at the Haywood Park Hotel.

RALPH BISHOP - OBTAINING CITY RECORDS

Ralph Bishop commented on his previous request to obtain records relative to the new parking garages. He asked how the news media received a copy of the records when he was told they would not be available until June, 1989.

VII. ADJOURNMENT

Mayor Bissette adjourned the meeting at 6:25 p.m.

MAYOR

CITY CLERK

Tuesday - April 11, 1989 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell Martin and A. Robert York; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Councilman Frank.

APPROVAL OF MINUTES - APRIL 4, 1989 MEETING

Mayor Bissette announced the approval of the minutes of the April 4, 1989 meeting as submitted.

APPROVAL OF MINUTES - MARCH 21, 1989 MEETING

Mayor Bissette announced the approval of the minutes of the March 21, 1989 meeting as submitted.

I. PROCLAMATIONS:

A. Proclamation - "Parkinson Awareness Month" - April, 1989

Mayor Bissette read the proclamation and presented a copy to Mrs. Samuel A. Bingham, President of Asheville Parkinsons Support Group.

B. Proclamation - "Optimist Bike Safety Week" - April 16 - 22, 1989

Mayor Bissette read the proclamation and presented a copy to John Teeter with the Asheville Optimist Club.

C. Proclamation - "Clean Streams Day" - April 15, 1989

D. Proclamation - "Glad Bag-A-Thon" - April 22, 1989

Mayor Bissette read the proclamations and presented them to Janie Wilson, Keep America Beautiful/Clean Community Coordinator with Quality Forward.

E. Proclamation - "Laboratory Week" - April 9 - 15, 1989

Mayor Bissette read the proclamation and presented a copy to Kathy Hill, from the Laboratory Department of the VA Medical Center.

II. PUBLIC HEARINGS:

III. OLD BUSINESS:

A. Ordinance amending the Charter of the City of Asheville to provide for nonpartisan elections with two or four year staggered terms.

Mayor Bissette said the North Carolina General Statute sec. 160A-101 provides that any city may change various aspects regarding its form of government, including the manner in which municipal primaries and elections are conducted. Municipal elections in the City of Asheville are currently conducted on a partisan basis and City Council members serve concurrent two year terms. A public hearing was held on this ordinance on April 4, 1989.

Mayor Bissette said members of Council discussed the issue of nonpartisan elections during their pre-council work session and reached a consensus to schedule a referendum on the issue of nonpartisan municipal elections. He said the tentative schedule for this process is as follows:

6/27/89	Adoption of Resolution of Intent
7/11/89	Publication of Notice of Public Hearing (must be at least 10 days before public hearing)

7/25/89	Pubic hearing (must be within 45 days of Resolution of Intent)
8/1/89	First reading of Ordinance (no earlier than next regular meeting after public hearing)
8/8/89	Second reading of Ordinance
8/15/89	Final adoption of ordinance (must be within 60 days after public hearing)
8/15/89	Adoption of Resolution scheduling referendum
8/22/89	Publication of Ordinance (must be within 10 days of adoption)
11/7/89	Referendum (must be within 90 days of adoption of Ordinance)

Herbert Hyde, Chairman of the Buncombe County Democratic Executive Committee, said in 1985 more than 100 members of the Buncombe County Democratic Party adopted a Statement of Principles, one of which stated that partisan political parties are necessary for good government. He said members of Council must have someone to answer to and the only way that can happen is through political government. He said nonpartisan elections would lower the esteem and accountability of government officials.

Shirley Birdie, President of the League of Women Voters, said they did not wish to take a position on the issue of nonpartisan municipal elections; however, they are strongly in favor of a referendum on the issue and the establishment of an educational forum on partisan/nonpartisan elections.

John Fobes said he was in favor of a referendum on the issue of nonpartisan elections and felt that more public discussion on the subject is needed.

Ralph Bishop said the City of Asheville needs honest people on Council and in government.

Vice-Mayor Michalove moved to postpone action on the issue of nonpartisan elections until June 27, 1989. This motion was seconded by Councilman York and carried unanimously.

IV. NEW BUSINESS:

A. Resolution No. 89-51 - Resolution endorsing the recommendations of the NC Highway Study Commission.

Mayor Bissette said this resolution was requested by the US 23/I-26 Corridor Association. The resolution will be presented, as part of a total Western North Carolina effort, to the Governor, the Secretaries of Transportation and Commerce and key legislators on April 12, 1989 in Raleigh.

Upon inquiry of Councilman Price, Mr. Burroughs from the Land-of-Sky Regional Council, outlined a portion of the recommendations of the NC Highway Study Commission. He said a complete list of the recommendations could be furnished to members of Council.

Councilman Frank commented that the proposed Highway Bill will increase Powell Bill funds by one-third and funds will be made available for unpaved secondary roads.

Upon motion of Councilman Frank, seconded by Councilman Martin, Resolution No. 89-51 was unanimously adopted.

Resolution Book No. 17 Page No. 394

V. CONSENT:

A. Bids for one truck mounted asphalt patching machine for Public Works Department, Street Division

SUMMARY: Recommendation for award of Bid Request No. 347-89 for one "Pro-Patch" model TCM 415-160 Asphalt Patching Machine mounted on a 1989 "GMC" model C7D042 Cab and Chassis with options as specified to the low bidder, H. D. Industries, Inc., Jacksonville, Texas, in the amount of $57,509.08.

B. Resolution No. 89-52 - Resolution endorsing the restated bylaws of the Economic Development Partnership of Asheville-Buncombe Area, Inc.

SUMMARY: The Chairman of the Economic Development Partnership has recommended that Council endorse the recommended revised bylaws. The only change is in the membership terms. Rather than July to June, the terms as proposed will run January to December. This allows the membership of the partnership to be reflective of November elections. It also allows continuity when proposing budgetary expenditures to each of the agencies. The recommendation come to Council with unanimous endorsement, after having been proposed by the partnership's legal advisor, Jack Stevens.

Resolution Book No. 17 Page No. 395

C. Resolution No. 89-53 - Resolution authorizing submission of an application to the Governor's Crime Commission for funding under the Victims Assistance Program.

SUMMARY: The grant will provide funding for the Housing Authority of the City of Asheville to administer a preventive victims assistance program. The program is designed to reduce crime in public housing through education and awareness programs for potential victims of crime.

Resolution Book No. 17 Page No. 396-397

Councilman Price said she would like to be assured that the funds from the Governor's Crime Commission for the Victims Assistance Program are going to be used for the victims of crime rather than just for personnel.

Marvin Vierra, Community Development Director, said it is his understanding that the funds were to be used mainly for educational purposes; however, David Jones, Executive Director of the Housing Authority could present members of Council with more information about the funds and there proposed use.

Councilman Bratton said there are strict federal guidelines that have to be met in receiving these grant funds.

Upon motion of Vice-Mayor Michalove, seconded by Councilman Price, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

CLAIMS - BILLY HAGAN (WATER)

The City Manager presented a claim received from Billy Hagan.

Mayor Bissette referred the claim to the City Attorney for investigation and recommendation.

REPORT OF GROUP DEVELOPMENT ACTIONS BY THE PLANNING AND ZONING COMMISSION

Carol Albrice, from the Planning Department, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. She said in accordance with the procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. She said the following action was taken by the Planning and Zoning Commission at their meeting on April 5, 1989.

KENNETH HAIR APARTMENTS OFF EDGEWOOD ROAD

Mrs. Albrice said the Asheville Planning and Zoning Commission on April 5, 1989, reviewed and approved the site plan of Kenneth Hair Apartments off Edgewood Road subject to the City sewer easement being shown on the site plan and compliance with the Erosion Control Ordinance. She said the project will consist of four two-story units. She said no public comments were received during the meeting.

Council accepted the recommendation of the Planning and Zoning Commission relative to the Kenneth Hair Apartments off Edgewood Road.

COUNTRY TOWNES OF HAW CREEK, PHASE II - WATERS ROAD

Mrs. Albrice said the Asheville Planning and Zoning Commission on April 5, 1989, reviewed and approved the site plan of Country Townes of Haw Creek, Phase II - Waters Road subject to buffering of development to comply with 1985 site plan and ordinance as approved by the Planning Director and compliance with the Erosion Control Ordinance. She said the project will consist of twenty-two residential duplexes. She said no public comments were received during the meeting.

Council accepted the recommendation of the Planning and Zoning Commission relative to the site plan for the Country Townes of Haw Creek - Phase II on Waters Road.

(3) LaPIER DEVELOPMENT - - PEARSON BRIDGE ROAD

Mrs. Albrice said the Asheville Planning and Zoning Commission on April 5, 1989, reviewed and approved the site plan of the LaPier Development on Pearson Bridge Road subject to the site being reduced to .99 acres as shown on the plan; buffer planted across east, north and south property lines; legal access being maintained from Pearson Bridge Road to LaPier Court; parking lot tree requirement being satisfied; and compliance with the Erosion Control Ordinance. She said the project will consist of five residential duplexes. She said no public comments were received during the meeting.

Council accepted the recommendation of the Planning and Zoning Commission relative to the site plan for the LaPier Development on Pearson Bridge Road.

COUNCILMAN BRATTON - REQUEST FROM RESIDENTS OF RECTOR STREET TO OPEN STREET

Councilman Bratton said she had received a petition from the residents of Rector Street requesting that the street be opened.

Mayor Bissette referred the petition to the City Manager for investigation and recommendation.

LITTER - COMMENTS BY COUNCILMAN PRICE

Councilman Price expressed thanks and appreciation to Assistant City Manager Charles Penny for his efforts in eliminating many of the litter problems this spring. She said even though the City of Asheville still has litter the City's appearance has improved this spring. She asked that these efforts be continued.

ANNOUNCEMENT OF BUDGET WORK SESSION BY COUNCIL

The City Manager announced that members of Council will be having a budget work session on Thursday, April 13, 1989 in the Asheville Area Chamber of Commerce Board Room beginning at 1:00 p.m.

RALPH BISHOP - OBTAINING CITY RECORDS

Ralph Bishop again spoke to Council relative to obtaining city documents relative to the new parking garages.

VII. ADJOURNMENT

Mayor Bissette adjourned the meeting at 5:20 p.m.

MAYOR

CITY CLERK

Tuesday - April 18, 1989 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell Martin and A. Robert York; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Councilman Bratton.

APPROVAL OF MINUTES - APRIL 11, 1989

Mayor Bissette announced the approval of the minutes of the April 11, 1989 meeting as submitted.

I. PROCLAMATIONS:

A. Proclamation - "Asheville-Buncombe Community Christian Ministry Day" - April 23, 1989

Mayor Bissette read the proclamation and presented a copy to Scott Rogers with the Asheville-Buncombe Community Christian Ministry.

B. Proclamation - "Asheville Riverfront Design Week" - April 26 - 29, 1989

Mayor Bissette read the proclamation and presented a copy to Karen Cragnolin, with the Riverfront Planning Committee. Ms. Cragnolin spoke about the events that would be taking place during Riverfront Design Week.

II. PUBLIC HEARINGS:

A. Public hearing relative to annexation of an area known as the Woods Edge Apartments Area.

B. Public hearing relative to annexation of an area known as the Skyland II Area.

SUMMARY: Pursuant to Part 3 of Article 4A of Chapter 160A of the N. C. General Statutes, the City of Asheville has examined certain areas to determine if they qualify for annexation. By Resolution No. 87-99, adopted June 2, 1989, the City of Asheville identified the Skyland II area and the Woods Edge Apartments Area as being under consideration for annexation. A report of the plans for extending services to these territories will be available for public inspection in the City Clerk's Office. Legible maps of the areas to be annexed and a list of persons holding freehold interest in property in the areas will be posted in the City Clerk's Office. On February 28, 1989, the City Council adopted Resolution Nos. 89-29 and 89-28 stating the intent of the City of Asheville to consider the annexation of Woods Edge and Skyland II and fixing the date of the public hearing.

Mayor Bissette opened the public hearings simultaneously at 4:23 p.m.

The City Clerk presented the notices to the public setting the time and date for the public hearing.

Patty Tallerday, with the Planning Department, outlined the boundaries proposed for annexation. She highlighted the plans for extending the services into the Woods Edge Apartments area and the Skyland II area.

Frank Mathis, Long Shoals Road, expressed concern about police protection and police response time. He cited a recent incident where it took city police 55 minutes to respond to a rear-end collision last month in the Skyland area and wanted to know that this type of service will improve.

Mayor Bissette told Mr. Mathis that the City Manager would look into that incident and that such response time is unacceptable.

Mrs. Frank Mathis, Long Shoals Road, requested information about maintenance of roads in the area, installation of sidewalks particularly near the schools, enforcement of speed limits, and the possibility of getting the speed limits reduced.

Mayor Bissette addressed Mrs. Mathis' concerns stating that many of the roads in the area are state maintained roads but the City works very close with the N. C. Department of Transportation and can make recommendations to the department.

Clifford Bletcher, Glenn Bridge Road, asked that the City help to have the speed limit controlled on Glenn Bridge Road. He also expressed concern that Carolina Power and Light Company rates will increase if the company has to pay higher taxes after their property is annexed.

Lynnwood Jackson, owner of a 22 unit apartment complex on Glenn Bridge Road said his major concern would be the speed limits in the area, sidewalks and street lights.

Bob Long, Long Shoals Road, said he was concerned about city police response time.

H.D. Smith, Edgewood Road Extension, asked about properties that would be taken in beyond Woods Edge Apartments.

Mayor Bissette said the City has to annex for more reasons than ad valorem taxes. He said the state shared revenues are based on assessed valuations or population and those revenues increase with annexations. He said properties are annexed under a strict procedure set forth by the North Carolina General Assembly.

A resident of 68 Ducker Road asked if the City would be paving dirt roads after the annexation.

Ann Carson, Beale Road, said annexation of their properties would not help the residents in the area.

Ralph Bishop spoke about enforcing the laws in the City and annexed areas.

Emily Smoat, Spring Hill Circle, expressed concern that Carolina Power and Light Company rates will increase if the company has to pay higher taxes. She said the city should get one area that they annex straightened out before trying to annex more property.

Frank Diamond, Hunters Trace Condominiums, asked if the City would be taking over maintenance of the roads in the condominium project. He was informed that the roads can be accepted by the City for maintenance if they are up to city standards and the residents petition to have the roads dedicated and the residents are willing to give the city dedicated rights-of-way.

Robert Hopefield, 53 Hunters Trace, asked about bus service to their area. He said the residents want full city services if they are going to be annexed. He was told that there would be no changes to school districts. He was also told that the city would take over maintenance of the street lights in the complex.

James Meece, 63 Rockwood Road, asked what percentage his taxes would increase after annexation. He also asked if he could still target practice on his property after it is annexed. He also asked if an on/off ramp to the interstate would be possible. He said residents on fixed incomes could not afford a new tax and the Council should put the annexation to a vote of the people.

Mr. Meece was informed about the percentage of taxes, and was told the discharge of firearms in the city is not allowed and that the ramp to the interstate would have to be addressed by the state.

Homer Smith, of Ducker Road, also spoke in opposition to the annexation.

R. D. Wexler, owner of propert in the area, asked general questions about annex on such as city bus service, car stickers, and s the people are being denied their constitutional ght not to vote on this issue.

Clark Lisenbee, asked ab zoning areas and whether they will match the exi ng county zones. He was informed that the zon g would match as closely as possible. He was also informed that the city would not pick up garbage dumpsters.

Jerry Chandler, Vice-President of Haywood Crossing Condominiums, asked if the city would take over their sewerage lift station. He was informed that the City would take over the station if it can be intergrated into the city system.

Francis Biggs, of Long Shoals Road, expressed concern that industries in the area may lay off employees or deny them raises in an effort to absorb the extra tax.

R. D. Whiterspoon also spoke in opposition to the annexation.

Mayor Bissette closed the public hearing at 6:21 p.m. and informed the audience that the first reading of the ordinances to annex the properties would be considered at the May 2, 1989 meeting.

SCHEDULING OF PUBLIC HEARING - TRAPPER'S RUN SUBDIVISION - HAW CREEK

Vice-Mayor Michalove moved to schedule a public hearing relative to Trapper's Run Subdivision in Haw Creek for May 2, 1989. This motion was seconded by Councilman Price and carried unanimously.

III. OLD BUSINESS:

IV. NEW BUSINESS:

V. CONSENT:

VI. OTHER BUSINESS:

COUNCIL MEETING OF APRIL 25, 1989 - EAST ASHEVILLE COMMUNITY CENTER

Mayor Bissette announced that the Council meeting scheduled for April 25, 1989 will be held in the East Asheville Community Center.

COMMENTS RELATIVE TO WATER BOND ISSUE

Margaret Mears appeared before Council and asked if the wording on the Water Bond issue ballot could be changed to reflect the French Broad River as a water source. The City Attorney said it was too late to change the wording that if the wording was changed the entire process would have to start over.

Ms. Mears asked if the Water Master Plan adopted by the Water Authority, the City, and the County could be altered as far as the French Broad River is concerned.

Councilman Price said the chances of the Water Master Plan being changed is not very good and the alternatives for water sources are not viable at this time.

Mayor Bissette suggested that Ms. Mears also express her concerns to the Asheville-Buncombe Water Authority.

Brian Peterson, 11 Highland, referring to the $40,000 fund set aside for Water Bond referendum, asked if any of these funds could be used by the opponents of the Water Bonds. He said if the funds are from tax sources that the opponents should be entitled to share the funds.

Mayor Bissette explained that the $40,000 fund, contributions from industry and private individuals, was a private fund with no city funds involved, and that it was unlikely that the opponents could use the funds.

Upon inquiry of Councilman Price, the City Attorney said the Asheville-Buncombe Water Authority, under certain guidelines, may have the authority to issue water bonds.

CLAIMS - RONNIE RIDDLE (STREETS) - JACK SIMONDS (SEWER)

The City Manager presented claims received from Ronnie Riddle and Jack Simonds.

Mayor Bissette referred the claims to the City Attorney for investigation and recommendation.

VII. ADJOURNMENT

Mayor Bissette adjourned the meeting at 6:50 p.m.

MAYOR

CITY CLERK

Tuesday - April 25, 1989 - 4:00 P.M.

Community Meeting held at East Asheville Community Center

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell Martin and A. Robert York; Acting Corporation Counsel Patsy Brison; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Corporation Counsel William F. Slawter (attending to other City business)

INVOCATION

The invocation was given by Councilman York.

APPROVAL OF MINUTES - APRIL 18, 1989

Mayor Bissette announced the approval of the minutes of the April 18, 1989 meeting as submitted.

I. PROCLAMATIONS:

A. Proclamation - "Child Abuse Awareness Month" - April, 1989

Mayor Bissette read the proclamation and presented a copy to Bob Clark and Jan Schmidt with the Western North Carolina Regional Child Abuse Center.

II. PUBLIC HEARINGS:

III. OLD BUSINESS:

IV. NEW BUSINESS:

A. Sign permit for freestanding identification sign for Asheville Mitsubishi Auto Dealership at 2 Kenilworth Knoll.

Mayor Bissette said pursuant to the Zoning Ordinance this sign permit requires approval of Council since the sign will be situated closer than 600' from a limited access highway.

Julia Cogburn, Planning Director, said a request has been received from Asheville Mitsubishi Auto Dealership for a sign permit to erect a 10' x 8' freestanding identification sign 36'8" in height. She said this permit includes the removal of an existing "Asheville Autohouse" sign and meets the requirements of the Sign Ordinance for the Commercial Highway zone.

Jerry Hobbs, President of Asheville Mitsubishi said the new sign would be an improvement over the existing sign. He said the 36'8" sign is a standard Mitsubishi sign.

Vice-Mayor Michalove moved for the approval of the sign permit for a freestanding identification sign for Asheville Mitsubishi Auto Dealership at 2 Kenilworth Knoll. This motion was seconded by Councilman Bratton and carried unanimously.

B. **Report on the Streets and Sidewalks Improvement Program.**

Jim Ewing, Director of Public Works, presented a status report on projects completed, scheduled and underway in the Street and Sidewalk Bond Program. He said the first contracts for work under the Bond Program were for sidewalk and/or curb replacement. He said beginning this summer, the contracts will revert to mostly street improvements, with only a few sidewalks being replaced.

He said four contracts for major reconstruction of streets will begin in the spring of 1989 which will include Beverly Road between U.S. 70 and New Haw Creek Road. He said work should begin shortly after July 1, 1989.

At the request of the Mayor, Mr. Ewing informed the audience about a recent study conducted by a consultant using infra red sensors to evaluate the condition of all the streets in the City. He said all the street were ranked according to condition. He said those streets receiving a ranking of 60-40 will be rehabilitated since their sub base has not been destroyed. He said streets with a ranking of 40 will be reconstructed. He said this would be a on going program in the Public Works Department.

Upon inquiry of Doyle Freeman of 93 Ambler Road, Mr. Ewing said the section of Beverly Road from Tunnel Road to N.C. 81 is not included in the contract for major reconstruction; the pot holes on Beverly Road would be fixed next week; and the Traffic Engineer would investigate the speed limits on Beverly Road.

Mr. Ewing said the Department of Public Works now has special equipment to repair pot holes in the streets.

V. CONSENT:

A. Resolution No. 89-54 - Resolution directing the City Clerk to investigate a petition received under G.S. 160A-58.1 to annex a noncontiguous area on U. S. 19-23 known as Pawn World Gun Supply.

SUMMARY: The City of Asheville has received a petition from Mr. DeWayne Roberson requesting annexation of a noncontiguous area known as Pawn World Gun Supply on Highway 19-23.

Resolution Book No. 17 Page No. 398

B. Resolution No. 89-55 - Resolution authorizing the Mayor to execute a lease with the Federal Aviation Administration.

SUMMARY: The current lease with the Federal Aviation Administration for the field office adjacent to the Airport has expired and the City and the FAA desire to enter into a new lease agreement for a period of one year.

Resolution Book No. 17 Page No. 399

C. Sale of Disposal Parcel 107 of East End/Valley Street and Disposal Parcel 178A of East Riverside.

SUMMARY: The Housing Authority has tentatively accepted bids from Ms. Peggy Dillingham for Disposal Parcel 107 of East End/Valley Street and from Mr. & Mrs. Roosevelt Wallace for Disposal Parcel 178A of East Riverside. Both Ms. Dillingham and the Wallaces plan to build single family homes with the assistance of WNC Habitat for Humanity. The lots will be purchased under the Incentive Housing Program ($1.00 lot). Ms. Dillingham's home will contain 4 bedrooms while the Wallace's will have 3 bedrooms.

D. Scheduling of public hearing relative to rezoning property for Mr. Ramsey for May 9, 1989.

SUMMARY: The Asheville Planning and Zoning Commission on April 5, 1989, reviewed and recommended approval of rezoning a portion of Lot 86, Sheet 17, Ward 6, from R-3 Residential District to CH Commercial Highway District.

E. Scheduling of public hearing relative to designating Albemarle Park as a historic district for May 9, 1989.

SUMMARY: The Asheville Planning and Zoning Commission on April 5, 1989 reviewed the request of the Albemarle Park-Manor Grounds Association, through the Historic Resources Commission, that their area be designated a local historic district. The Commission voted to recommend approval of the designation and to exclude the property on Charlotte Street south of the Gatehouse zoned CG Commercial General.

F. Scheduling of public hearing relative to rezoning property for Mr. Redmon for May 16, 1989.

SUMMARY: The Asheville Planning and Zoning Commission on April 5, 1989 reviewed and recommended approval of rezoning Lot 19, Sheet 6, Ward 6, from R-3 Residential District to CS Commercial Service District.

G Scheduling of public hearing relative to an ordinance regulating the operating or maintenance of automobile graveyards and junkyards in the zoning jurisdiction of the City of Asheville for May 16, 1989.

SUMMARY: The Asheville Planning and Zoning Commission on April 5, 1989 reviewed and recommended adoption of an ordinance for the operation or maintenance of automobile graveyards and junkyards in the zoning jurisdiction of the City of Asheville.

Upon motion of Vice-Mayor Michalove, seconded by Councilman Martin, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

Resolution No. 89-56 - Resolution authorizing the Mayor to execute an application and related documents for a grant from the North Carolina Department of Crime Control and Public Safety through the Governor's Crime Commission for the Western North Carolina Regional Child Abuse Center

Mayor Bissette read the resolution and stated that this a pass through grant and the City would have no responsibility for providing matching funds.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 89-56 was unanimously adopted.

LETTER REGARDING FRENCH BROAD RIVERFRONT PLANNING COMMITTEE

Mayor Bissette read the following letter to be presented during the public hearings regarding the French Broad Riverfront:

April 25, 1989

Mr. Peter Batchelor, AIA/AICP
Director, NCAIA Urban Design Assistance Team
4233 West Rowan Street
Raleigh, North Carolina 27609

Ms. Karen Cragnolin, Executive Director
French Broad Riverfront Planning Committee
7 Cedarcliff Road
Asheville, North Carolina 28803

Dear Mr. Batchelor and Mrs. Cragnolin:

The Asheville City Council is honored that Asheville's urban riverfront is the focus of this week's planning charette in conjunction with the AIA/ASLA design team. The French Broad River is one of our area's greatest natural resources and one which has been neglected too long. Our riverfront needs the attention of professionals like you and the qualified design team which you have assembled to guide and augment our community's ideas and dreams for a revitalized riverfront.

Throughout the 2010 Asheville City Plan process, citizens spoke favorably of a redesign of the French Broad Riverfront incorporating mix-use development and a coordinated network of open spaces to protect the City's flood prone areas. We are pleased to learn of this continued broadbased citizen participation over the last eighteen months combining property owner surveys, numerous public hearings and public contests. This week's public hearings and Saturday's public presentation, to be held in conjunction with the planning process, continues to offer all citizens an opportunity to develop a plan for the urban riverfront. We wish you and all the participants of the planning process every measure of success.

The implementation of any comprehensive plan for the urban riverfront will need both public and private investment. As evidence of this City Council's anticipated involvement in the urban riverfront, we have included in our 5 year Capital Improvement Plan significant funding for river park and greenway developments.

We know the planning and development process is just beginning and will continue for many years. By working together with property owners, developers and recreation enthusiasts, we can produce a riverfront design surpassing its celebrated past. Thank you again for your time and efforts on behalf of our Community.

BARBARA MELTON - PRESIDENT OF HAW CREEK HOMEOWNER'S ASSOCIATION

Barbara Melton, President of Haw Creek Homeowner's Association, questioned when a new zoning ordinance would be in place.

Julia Cogburn, Director of Planning, said a new zoning ordinance is still several years away and that if the Haw Creek Homeowner's Association feels they need to present a proposal for tighter restrictions in the R-3 Residential District zone they should go ahead and present their proposal to the Planning and Zoning Commission.

Upon inquiry of Ms. Melton, Jim Ewing, Director of Public Works, said the intersection of Beverly Road and Haw Creek Road would be completely revamped.

WALTER KALES - HAW CREEK - COMMENTS REGARDING SPEED LIMITS AND DEVELOPMENTS

Walter Kales commented on the speed limits not being enforced from Tunnel Road to 74 East and requested that the speed limits be reduced.

Mayor Bissette informed Mr. Kales that this road is a state system road but Council would talk with the NCDOT about the speed limits in the area.

Upon inquiry of Mr. Kales, Mayor Bissette said the City has no control over developers beginning projects then declaring bankruptcy. He said the private marketplace should take care of these financial conditions.

DOYLE FREEMAN - CLOISTER PROJECT ON FAIRWAY DRIVE

Doyle Freeman asked whether or not the Cloister Condominium Project on Fairway Drive is conforming to the buffering requirements imposed on the development during the approval process.

Julia Cogburn, Director of Planning, said the Cloister Condominium Project is required to be in compliance by November, 1989. She said the project is inspected on a regular basis.

RALPH BISHOP - POLICE DEPARTMENT - LOTTERY SALES

Ralph Bishop again spoke to Council about the Asheville Police Department and the lottery sales in the City.

PROCESS FOR SELECTION OF POLICE CHIEF

At the request of the Mayor, the City Manager explained the process he would be using for the selection of a Police Chief for Asheville. He said this would be a very involved process. He said the administrative staff has been talking with employees in the Police Department as to what attributes they think Asheville needs in a Police Chief. He said they would be meeting with about forty community leaders involving a broad spectrum of the community on what attributes they feel Asheville needs in a Police Chief.

He said he would be using the Assessment Center system in selecting the chief. He said this system is a very intense process and would determine the strengths and weaknesses of a candidate. He said selected applicants will be required to go through a three-day assessment process.

He said the City has received about 120 applications and the deadline for submitting applications is two weeks away. He said the selection process should be completed by July 1, 1989.

Jerry Hobbs, President of Asheville Mitsubishi Auto Dealership, said he has dealt with the Police Department on several occasions regarding major vandalism and was not satisfied with the manner in which these incidents were handled. He said the Police Department should have some concern for the businesses in Asheville.

Mayor Bissette asked the City Manager to look into Mr. Hobbs' concerns.

CLAIMS - EVELYN CRAFT (WATER) - JAMES BOONE (STREETS) - CLINT GORMAN (SANTIATION) - RONALD BUTLER (SEWER)- JIMMY COLE (WATER)

The City Manager presented claims received from Evelyn Craft, James Boone, Clint Gorman, Ronald Butler, and Jimmy Cole.

Mayor Bissette referred the claims to the City Attorney for investigation and recommendation.

VII. ADJOURNMENT

Mayor Bissette adjourned the meeting at 5:20 p.m.

MAYOR

CITY CLERK

((1))

Tuesday - May 2, 1989 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell Martin and A. Robert York; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Price

INVOCATION

The invocation was given by Councilman Martin.

APPROVAL OF MINUTES - APRIL 25, 1989

Mayor Bissette announced the approval of the minutes of the April 25, 1989 meeting with minor corrections.

I. PROCLAMATIONS:

A. Proclamation - "Respect for Law Week" - May 1 - 7, 1989

Mayor Bissette read the proclamation and presented a copy to John Teeter with the Asheville Optimist Club. The Asheville Optimist Club annually sponsors "Respect for Law Week".

B. Presentation by Western North Carolina Development Association.

Patricia O. Brinkley, President of the Western North Carolina Development Association, Inc., read a resolution adopted by the Western North Carolina Development Association, Inc. Board of Directors expressing their sincerest appreciation to the City of Asheville for providing them office space for 40 years at a nominal fee. She said the City Hall Building Renovation necessitated that the Western North Carolina Development Association vacate the space it has occupied for 40 years.

II. PUBLIC HEARINGS:

A. Public hearing relative to final subdivision plat of Trapper's Run (submitted as Haw Creek Subdivision).

Mayor Bissette said the Asheville Planning and Zoning Commission on May 25, 1988, reviewed and approved the preliminary subdivision plat of Trapper's Run (submitted as Haw Creek Subdivision), subject to the following contingencies:
1) Compliance with the County's Erosion Control Ordinance;
2) Compliance with the County's Flood Plain Ordinance;
3) Variances by Board of Adjustment on front lot width for lots where required; and
4) 35' building setback line on Lots 1 and 34 along Haw Creek Road and 17-1/2' building setback line on corner lots 16, 26, 27 and 7.

These contingencies have been complied with and the final plat is submitted for your approval.

Mayor Bissette opened the public hearing at 4:30 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Tom Elmore, with the Planning Department, presented the final plat stating that the developer has resolved all the contingencies outlined by the Planning and Zoning Commission. He said the plat received reviews from city departments and the Public Works Department is concerned about the infrastructure not being completed to city standards before being annexed and accepted by the City.

Ron Brondyke, Attorney representing the developer, spoke in support of the final plat for Trapper's Run.

Mayor Bissette closed the public hearing at 4:34 p.m.

A discussion was held relative to the construction of streets in the subdivision. The developer, Lee Norwood, said the streets were being constructed to state standards.

After further discussion, Vice-Mayor Michalove moved to approve the final subdivision plat of Trapper's Run (submitted as Haw Creek Subdivision) as recommended by the Planning and Zoning Commission. This motion was seconded by Councilman York and carried unanimously.

III. OLD BUSINESS:

A. Ordinance No. 1760 - Ordinance relative to annexation of an area known as the Woods Edge Apartments Area.

Mayor Bissette said pursuant to Part 3 of Article 4A of Chapter 160A of the N. C. General Statutes, the City of Asheville has examined certain areas to determine if they qualify for annexation. By Resolution No. 87-99, adopted June 2, 1987, the City of Asheville identified the Woods Edge Apartments area as being under consideration for annexation. A public hearing was held on this proposed annexation on April 18, 1989

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Frank moved for the adoption of Ordinance No. 1760. This motion was seconded by Councilman Martin.

On a roll call vote of 6-0. Ordinance No. 1760 passed on first reading.

B. Ordinance No. 1761 - An ordinance relative to annexation of an area known as the Skyland II Area.

Mayor Bissette said pursuant to Part 3 of Article 4A of Chapter 160A of the N. C. General Statutes, the City of Asheville has examined certain areas to determine if they qualify for annexation. By Resolution No. 87-99, adopted June 2, 1987, the City of Asheville identified the Skyland II area as being under consideration for annexation. A public hearing was held on this proposed annexation on April 18, 1989.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Frank moved for the adoption of Ordinance No. 1760. This motion was seconded by Councilman Martin.

On a roll call vote of 6-0, Ordinance No. 1760 passed on first reading.

IV. NEW BUSINESS:

A. **Resolution adopting Minority and Women Business Procurement Plan.**

Mayor Bissette said the Minority and Women Business Procurement Plan states the Policy of the City with regard to providing equal opportunity for minority and women owned business enterprises (M/WBE) in all aspects of City contracting and purchasing programs. The plan also includes goals for M/WBE participation in overall City contracting and procurement and describes responsibilities of the City and contractors to enhance efforts to meet the goals.

Mayor Bissette said members of Council have been requested to postpone action on this matter for two (2) weeks giving several groups an opportunity to review the proposed plan and to prepare their comments for Council.

Joe Webster, with the Asheville Chapter of the NAACP, said he would make his comments on the plan when Council considers the issue in two weeks. He said he felt the goals in the plan are too low and expressed concern that the plan is for only 1988-89.

Marilyn , encouraged Council to adopt the plan. She said a letter has been received from the National NAACP office relative to the proposed plan. She said this action may encourage women and blacks to bid on providing government services.

Ralph Bishop requested a copy of the proposed resolution and plan. (The City Manager furnished Mr. Bishop with a copy of the resolution and plan).

V. CONSENT:

A. Bids for two truck mounted aerial devices/bucket trucks for Parks, Recreation and Public Facilities Department and Public Works Department.

SUMMARY: Bid Item "A" - One (1) truck mounted aerial device/bucket truck for Parks, Recreation and Public Facilities Department Tree Crew. - Award to: Map Enterprises, Inc., Burlington, N. C., lowest bidder meeting bid specifications, in the amount of $67,332.00 for a "Holan" model 819-50-3 Aerial Device mounted on a 1989 "Chevrolet" model C7D042 Cab and Chassis.

Bid Item "B" - One (1) truck mounted Aerial Device/Bucket Truck for Public Works Department, Traffic Engineering Division. Award to: Map Enterprises, Inc., Burlington, N. C., low bidder, in the amount of $35,869.00 for an "Armlift" Model A36H Aerial Device mounted on a 1989 "Ford" model F-600 Cab and Chassis.

B. Sale of Disposal Parcel 137 of East End/Valley Street Community Improvement Program.

SUMMARY: The Housing Authority has tentatively accepted a bid from Larry Donahue for Disposal Parcel 137 of the East End/Valley Street Community Improvement Program. Mr. Donahue owns the adjacent property and plans to use the lot, which is too small to build on, to provide access to his rear yard for off street parking. The minimum price on Parcel 137 is $61.00. Mr. Donahue's bid is $61.00. The area of the lot is 610 square feet.

Upon motion of Councilman Frank, seconded by Councilman York, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

COMMENTS BY MEMBERS OF COUNCIL - RECTOR STREET - CRESCENT STREET

Upon inquiry of Councilman Bratton, the City Manager said the City staff is looking into the requests of the residents on Rector Street to have the street reopened.

The City Manager said he would also look into the request of the residents on Crescent Street to having the street made one-way since the street is extremely narrow. Mayor Bissette said he understands the residents are circulating a petition to have the street a one-way.

The City Manager asked members of Council to mark their calendars for Sunday, May 21, 1989 at 3:00 p.m. in the Council Chambers for a surprise ceremony.

RENDALL DAVIS - STATEMENT RELATIVE TO WATER BOND ISSUE

Rendall Davis read a prepared statement opposing the upcoming water bond issue. He said he had joined the Coalition for Safe Drinking Water in opposing the use of the French Broad River as a water resource.

CLAIMS - CLAUDE TAYLOR (SEWER) - JOE SIMPSON (SEWER) - G. S. KING (WATER/STREETS) - SHANDY NEWELL (WATER)

The City Manager presented claims received from Claude Taylor, Joe Simpson, G. S. King, and Shandy Newell.

Mayor Bissette referred the claims to the City Attorney for investigation and recommendation.

LAWSUIT - HARRY BRUMMER

The City Manager said the city was served with a lawsuit on April 26, 1989 involving Harry Brummer (improper denial of building and zoning permit).

Mayor Bissette referred the lawsuit to the City Attorney for investigation and recommendation.

RALPH BISHOP - SELECTION OF NEW POLICE CHIEF

Ralph Bishop made comments about the Asheville Police Department and the selection of the new Police Chief.

VII. ADJOURNMENT.

Mayor Bissette adjourned the Council meeting at 5:25 p.m.

MAYOR

CITY CLERK

Tuesday - May 9, 1989 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell Martin and A. Robert York; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Deputy City Clerk Carol Hensley.

Absent: Associate City Manager/City Clerk William F. Wolcott, Jr.

INVOCATION

The invocation was given by Councilman Price.

APPROVAL OF MINUTES

Mayor Bissette announced the approval of the minutes of the May 2, 1989 meeting as submitted.

I. PROCLAMATIONS:

A. Proclamation - May 15 - 19, 1989 - "Law Enforcement Officers Week" and May 15, 1989 as "Peace Officers Memorial Day"

Mayor Bissette read the proclamation and presented a copy to Captain R. L. Carver with the Asheville Police Department.

B. Proclamation - May 9, 1989 - "Parks and Recreation Volunteer Recognition Day"

Mayor Bissette read the proclamation and presented a copy to Ray Kisiah, Director of Parks, Recreation and Public Facilities Department.

Mr. Kisiah recognized Dr. and Mrs. Lowell Orbison of the Asheville Tree/Greenway Commission as the "Outstanding Volunteer" for his effort in conducting a comprehensive survey of all trees within the City of Asheville from the curb line of the street to the front of each house.

II. PUBLIC HEARINGS:

A. Public hearing relative to an ordinance amending Article 13 of Chapter 30 of the Code of Ordinance of the City of Asheville to create the Albemarle Park Historic District.

Ordinance No. 1762 - An Ordinance amending Article 13 of Chapter 30 of the Code of Ordinances of the City of Asheville to create the Albemarle Park Historic District.

Mayor Bissette said the Asheville Planning and Zoning Commission on April 5, 1989 reviewed the request of the Albemarle Park-Manor Grounds Association, through the Historic Resources Commission, that their area be designated a local historic district. The Commission voted to recommend approval of the designation and to exclude the property on Charlotte Street south of the Gatehouse zoned CG Commercial General.

Mayor Bissette opened the public hearing at 4:25 p.m.

The Deputy City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Mayor Bissette said since the notice to the public contained only properties in Albemarle Park and not the six (6) properties on Charlotte Street, that the Commission recommended not be included in the Historic District, Council could not at today's meeting include the six (6) properties in the ordinance for inclusion in the Historic District.

Doug Swaim, Director of the Historic Resources Commission, gave a detailed historical background of Albemarle Park. He also presented slides of the area in consideration. He said there are 63 structures in Albemarle Park, 45 from the historical period. He said 71% of the structures were built before 1917.

Mr. Swaim said the procedural process involved in getting a favorable historic district designation was followed. He said the Planning and Zoning Commission recommended that the structures affronting on Charlotte Street south of the Gateway be excluded from the Albemarle Park Historic District. He said six (6) letters have been received in support of the district and one (1) against. He said a protest petition was also filed by R. L. Bailey, owner of property facing Charlotte Street. He said no objections have been received for the designation of the Albemarle Park excluding the six (6) properties affronting Charlotte Street.

Rich Matthews, of 12 The Circle in the Manor Grounds, speaking as President of the Albemarle Park-Manor Grounds Homeowners Association, spoke in favor of the historic district designation. He requested that the original boundaries of the Park, which included the property affronting Charlotte Street, be included in the designation. He said the residents in the area do not object to the commercial establishments and design guidelines could be drawn up to enhance the area both for the residents and the commercial businesses. He said the guidelines would not be detrimental to the businesses.

The following individuals spoke in support of the Albemarle Park Historic District and to include the six (6) properties affronting on Charlotte Street:

Frank Edwin - owner of property in Albemarle Park
Bernice Wolfe - Orchard Road
Lucille Barkley - Chipmunk Cottage
Jane Matthews - 12 The Circle
Carl Marvin - Itldo Cottage
Kate Matthews - Holly Hawk
Rob Pallin - Galax Cottage
Debra Bennett - Fox Hall - Cherokee Cottage - Fox Den
Tish Nelson
Jean Warner - President of Preservation Society and for
Max Haner - for Coalition of Neighborhoods
Mark Bennett - Fox Hall - Cherokee Cottage - Fox Den
Resident of Pine Tree Cottage
Resident of Alva Glen Cottage
Dr. Lowell Orbison - resident of North Asheville
Alan Shaw - Brownberry Cottage
Fred Warner - Raven's Nest
Renea Warner - Raven's Nest
June Grant - local relator

The following individuals spoke against inclusion of the six (6) properties affronting on Charlotte Street in the Albemarle Park Historic District. The reasons for not wanting the properties included in the district were the opposition to some level of control by the government and land use zoning of the area:

Jim Daniels - Owner of property affronting Charlotte
R. L. Bailey - Owner of property affronting Charlotte
John Powell, Attorney representing R. L. Bailey
Elizabeth Graham - 247 Charlotte Street
Ron Bailey - 247 Charlotte Street

Mike Moser, Chairman of the Planning and Zoning Commission, reiterated the positive recommendation of the Planning and Zoning Commission for the Albemarle Park Historic District and the recommendation to exclude the six (6) properties affronting on Charlotte Street. He said the vote of the Commission was 4-2.

Councilman Bratton said the residents and the owners of the six (6) properties affronting on Charlotte Street should have been involved with the Historic Resources Commission process in obtaining this designation in an effort to decrease the tension among the individuals.

Upon inquiry of Councilman Price, Mr. Swaim said there are no direct economic tax benefits for individuals in the historic district.

Mayor Bissette closed the public hearing at 6:25 p.m.

Mayor Bissette said copies of the ordinance were previously furnished to members of Council and the ordinance would not be read in its entirety.

Councilman York moved for the adoption of Ordinance No. 1762. This motion was seconded by Councilman Bratton.

On a roll call vote of 7-0, Ordinance No. 1762 passed on first reading.

Councilman Price moved that the six (6) properties affronting on Charlotte Street that were recommended by the Planning and Zoning Commission to be excluded from the Albemarle Park Historic District be remanded to the Planning and Zoning Commission for further consideration and that the property owners of the six (6) parcels be included in the preparation of the design guidelines for the Albemarle Park Historic District. This motion was seconded by Councilman Frank and carried unanimously.

B. **Public hearing relative to rezoning property at 371 North Louisiana Avenue from R-3 Residential District to CH Commercial Highway District for Mr. Emmett Ramsey.**

Ordinance No. 1763 - An Ordinance amending the Zoning Ordinance and Zoning Map to rezone a portion of a lot located on North Louisiana Avenue

Mayor Bissette said the Asheville Planning and Zoning Commission on April 5, 1989, reviewed and recommended approval of rezoning a portion of Lot 86, Sheet 17, Ward 6, from R-3 Residential District to CH Commercial Highway District.

Mayor Bissette opened the public hearing at 6:30 p.m.

The Deputy City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Don Sherrill, from the Planning Department, presented the requested rezoning and Planning and Zoning Commission's recommendation. He said there was no opposition to the rezoning request.

Mr. Emmett Ramsey, petitioner, spoke in support of the rezoning.

Mayor Bissette closed the public hearing at 6:42 p.m.

Mayor Bissette said copies of the ordinance were previously furnished to members of Council and the ordinance would not be read in its entirety.

Councilman Martin moved for the adoption of Ordinance No. 1763. This motion was seconded by Councilman Price.

On a roll call vote of 7-0, Ordinance No. 1763 passed on first reading.

III. OLD BUSINESS:

A. Ordinance No. 1760 - Second reading of an ordinance relative to annexation of an area known as the Woods Edge Apartments Area.

Mayor Bissette said pursuant to Part 3 of Article 4A of Chapter 160A of the N. C. General Statutes, the City of Asheville has examined certain areas to determine if they qualify for annexation. By Resolution No. 87-99, adopted June 2, 1987, the City of Asheville identified the Woods Edge Apartments area as being under consideration for annexation. This ordinance passed on first reading on May 2, 1989.

Councilman Price left the meeting at 6:45 p.m., unexcused, to attend another meeting.

Mayor Bissette said the ordinance was previously read on first reading and would not be read in its entirety.

On a roll call vote of 7-0, Ordinance No. 1760 passed on second reading.

B. Ordinance No. 1761 - Second reading of an ordinance relative to annexation of an area known as the Skyland II Area.

Mayor Bissette said pursuant to Part 3 of Article 4A of Chapter 160A of the N. C. General Statutes, the City of Asheville has examined certain areas to determine if they qualify for annexation. By Resolution No. 87-99, adopted June 2, 1987, the City of Asheville identified the Skyland II area as being under consideration for annexation. This ordinance was read on first reading on May 2, 1989.

Mayor Bissette said the ordinance was previously read on first reading and would not be read in its entirety.

Mrs. Flora Madison of Long Shoals Road spoke in opposition to the annexation.

On a roll call vote of 7-0, Ordinance No. 1761 passed on second reading.

IV. NEW BUSINESS:

A. Ordinance No. 1764 - Ordinance amending Ordinance No. 1690 known as "An Ordinance for the levy and collection of business license taxes."

Mayor Bissette said North Carolina General Statutes, Chapter 105, Section 53 addresses Peddlers, Itinerant Merchants, and flea market operators. Ordinance No. 1690 in its present form does not define these classes, or is vague in its description. The revision is consistent with North Carolina General Statutes. The ordinance also reaffirms the rates outlined in the ordinance.

The City Manager said Ordinance No. 1690 changed the Revenue Ordinance to reflect fees based on actual retail sales rather than fees on a categorical basis. He said the fees were to be phased in for a two (2) year period. He said this ordinance would reaffirm that change and a full rate of 50 cents per thousand would be included this year. He said this is a more equitable method of collecting the revenue for business license.

Vice-Mayor Michalove expressed concern about adopting the ordinance without the input from businesses. He said he felt businesses should have been informed that this matter would be on the agenda with enough notice that they could respond if they so desired.

Councilman York moved for the adoption of Ordinance No. 1764. This motion was seconded by Councilman Frank.

On a roll call vote of 7-0, Ordinance No. 1764 passed on first reading.

V. CONSENT:

A. Resolution No. 89-57 - Resolution approving signatories for checks or drafts on official city depositories.

SUMMARY: This resolution will bring the City of Asheville in compliance with North Carolina General Statute 159-25.

B. Scheduling public hearing relative to Community Development Objectives for FY 90 for May 23, 1989.

SUMMARY: This action will authorize submission of CDBG entitlement application for 1989-90.

Upon motion of Vice-Mayor Michalove, seconded by Councilman Martin, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

SIGN PERMIT - 45 CHARLOTTE STREET - AMOCO

Julia Cogburn, Planning Director, presented a sign permit request for a sign package for 45 Charlotte Street Amoco. She said the sign package requires approval of Council pursuant to the Zoning Ordinance in that the sign will be situated closer than 600' from the right-of-way of a limited access highway.

She said the sign package consist of: (1) 35' x 4'3/4" single faced canopy sign facing on Arlington Street; (2) 35' x 4'3/4" single faced canopy sign, to face I-240 - Total square footage for both canopy signs 177 square feet. The owner will install one (1) 47.58' x 2.5' wall sign replacement for a total of 118.95 square feet. Total square footage of proposed sign package is 296 square feet. Total square footage of existing signage is 96 square feet. Total square footage of proposed and existing signage is 392 square feet.

Councilman Bratton moved for the approval of the sign package for 45 Charlotte Street. This motion was seconded by Vice-Mayor Michalove and carried unanimously.

CLAIMS - JOHN KLEDIS (SEWER)

The City Manager presented a claim received from John Kledis.

Mayor Bissette referred the claim to the City Attorney for investigation and recommendation.

LAWSUIT - DIXIE CONSTRUCTORS INC. V. CITY OF ASHEVILLE

The City Manager said the city was served with a lawsuit on May 4, 1989 involving Dixie Constructors, Inc. v. City of Asheville, et al. (Claim for balance due on contract and alleged delay damages.)

Mayor Bissette referred the lawsuit to the City Attorney for investigation and recommendation.

VII. ADJOURNMENT

Mayor Bissette adjourned the meeting at 7:05 p.m.

MAYOR

CITY CLERK

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DEPARTMENT OF CULTURAL RESOURCES

DIVISION OF ARCHIVES AND HISTORY

ARCHIVES AND RECORDS SECTION

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CITY OF ASHEVILLE

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Volume: 57

Year: May 16, 1989 - May 25, 1990

Pages: 1-474

North Carolina Division of Archives and History
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DEPARTMENT OF CULTURAL RESOURCES

DIVISION OF ARCHIVES AND HISTORY

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Tuesday - May 16, 1989 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell Martin and A. Robert York; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Mayor Bissette.

APPROVAL OF MINUTES

Mayor Bissette announced the approval of the minutes of the May 9, 1989 meeting.

I. PROCLAMATIONS:

A. Resolution No. 89-58 - Resolution in support of Women in Fire Suppression.

Mayor Bissette read the resolution and presented a copy to Asheville Firefighter III Peggy Roberts.

II. PUBLIC HEARINGS:

A. Public hearing relative to rezoning property at 43 Oakley Place, petition of Darrell Redmond by Carla Taylor, Agent.

Ordinance No. 1765 - Ordinance amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville," as amended, petition of Darrell Redmond by Carla Taylor, Agent, 43 Oakley Place.

Mayor Bissette said the Asheville Planning and Zoning Commission on April 5, 1989 reviewed and recommended approval of rezoning Lot 19, Sheet 6, Ward 6, from R-3 Residential District to CS Commercial Service District.

Mayor Bissette opened the public hearing at 4:27 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Carol Albrice, from the Planning Department, reviewed the rezoning request. She said the lot is vacant and the rezoning is in accordance with the 2010 comprehensive plan. She reviewed the surrounding zoning of the property. She said a 5' buffering would be required to adjacent residential property. She said the Public Works Department recommends the closing of Oakley Place which is currently a right of way that is not maintained. She said no opposition was received relative to the rezoning.

Mayor Bissette closed the public hearing at 4:34 p.m.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Martin moved for the adoption of Ordinance No. 1765. This motion was seconded by Councilman Price.

On a roll call vote of 7-0, Ordinance No. 1765 passed on first reading.

B. Public hearing relative to an ordinance regulating the operating or maintenance of automobile graveyards and junkyards in the zoning jurisdiction of the City of Asheville.

Ordinance No. 1766 - An ordinance regulating the operating or maintenance of automobile graveyards and junkyards in the Zoning Jurisdiction of the City of Asheville.

Mayor Bissette said the Asheville Planning and Zoning Commission on April 5, 1989 reviewed and recommended adoption of the ordinance.

Mayor Bissette opened the public hearing at 4:35 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, from the Planning Department, presented the proposed ordinance to regulate automobile junkyards. He said notices of the hearing were given to property owners and operators by certified mail. He said the ordinance is mirrored the County ordinance adopted in 1983. He said principal landscaping requirements are in keeping with the landscaping ordinance adopted in

1988. He said property owners and operators would be given twelve (12) months to comply with the ordinance. He said in his opinion ninety (90%) percent of the businesses can comply with ordinance with very little difficulty.

Upon inquiry of Councilman Price, Mr. Emrick said variances to specific sections of the ordinance can be obtained through the Board of Adjustment.

Mayor Bissette closed the public hearing at 4:54 p.m.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Frank moved for the adoption of Ordinance No. 1766. This motion was seconded by Councilman Price.

On a roll call vote of 7-0, Ordinance No. 1766 passed on first reading.

III. OLD BUSINESS:

A. Ordinance No. 1762 - Second reading of an ordinance amending Article 13 of Chapter 30 of the Code of Ordinance of the City of Asheville to create the Albemarle Park Historic District.

Mayor Bissette said the Asheville Planning and Zoning Commission on April 5, 1989 reviewed the request of the Albemarle Park-Manor Grounds Association, through the Historic Resources Commission, that their area be designated a local historic district. The Commission voted to recommend approval of the designation and to exclude the property on Charlotte Street south of the Gatehouse zoned CG Commercial General.

Mayor Bissette said after further discussions relative to the designation of Albemarle Park Historic District, it has been recommended that action on the second reading of the ordinance be postponed for three (3) weeks.

Mayor Bissette said after consulting with the City Attorney, the City Council had three options: 1) proceed with second reading of ordinance; 2) remand entire district to Planning and Zoning Commission; or 3) postpone second reading until Planning and Zoning Commission reviews the six (6) additional properties. He said the City Attorney has advised that Council proceed with the third alternative.

Jean Warner and Rich Matthews requested that Council rescind the first reading of the ordinance and remand the entire district to Planning and Zoning Commission. They said they felt this action would avoid delays in getting the area designated.

Councilman York moved to postpone the second reading of the ordinance for three (3) weeks. This motion was seconded by Councilman Frank and carried unanimously.

B. Ordinance No. 1763 - Second reading of an ordinance rezoning property at 371 North Louisiana Avenue from R-3 Residential District to CH Commercial Highway District for Mr. Emmett Ramsey.

Mayor Bissette said the Asheville Planning and Zoning Commission on April 5, 1989, reviewed and recommended approval of rezoning a portion of Lot 86, Sheet 17, Ward 6, from R-3 Residential District to CH Commercial Highway District.

Mayor Bissette said the ordinance was previously read on first reading and would not be reread in its entirety.

On a roll call vote of 7-0, Ordinance No. 1763 passed on second reading.

C. Resolution No. 89-59 - Resolution amending the report of plans for extension of city services into the Woods Edge Apartments Area proposed for annexation.

Mayor Bissette said N. C. Gen. Stat. 160A-49(e) authorizes the municipal government to amend the report required by N. C. Gen. Stat. 160A-47 to make changes in the plans for serving the area proposed for annexation.

D. Resolution No. 89-60 - Resolution amending the report of plans for extension of city services into the Skyland II Area proposed for annexation.

Mayor Bissette said N. C. Gen. Stat. 160A-49(e) authorizes the municipal government to amend the report required by N. C. Gen. Stat. 160A-47 to make changes in the plans for serving the area proposed for annexation.

Patty Fallerday, from the Planning Department, reviewed the major amendments to the plan.

Mayor Bissette said members of Council were previously furnished with copies of the resolution

and amended plan and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 89-60 was unanimously adopted.

Resolution Book No. 17 Page No. 404

E. Ordinance No. 1760 - Third reading of an ordinance relative to annexation of an area known as the Woods Edge Apartments Area.

Mayor Bissette said pursuant to Part 3 of Article 4A of Chapter 160A of the N. C. General Statutes, the City of Asheville has examined certain areas to determine if they qualify for annexation. By Resolution No. 87-99, adopted June 2, 1987, the City of Asheville identified the Woods Edge Apartments area as being under consideration for annexation.

Mayor Bissette said the ordinance was previously read on first and second readings and would not be reread in its entirety.

On a roll call vote of 7-0, Ordinance No. 1760 passed on third and final reading.

Ordinance Book No. 11 Page No. 435-437

A. W. Wexler, appearing on behalf of residents in the Woods Edge and Skyland II areas, presented a petition in opposition to the annexation of the Woods Edge and Skyland II areas. He said the petition contained approximately 300 signatures. He also requested the Council consider a 120 day delay in annexing these properties in order for the Buncombe County Commissioners to present the City with a proposal concerning this issue. He said the Commissioners are in the process of preparing this proposal.

Mayor Bissette said the Buncombe County Commissioners have not formally advised members of Council of a proposal relative to annexation and to his knowlege the Commissioners have not considered such a proposal. He said in order for the City of Asheville to grow on a reasonable basis the City must annex properties. He reminded Mr. Wexler that the City of Asheville operates under the same laws as any other city in North Carolina regarding annexation.

The City Attorney reminded members of Council that the annexation ordinance must be finally adopted today in order for the annexations to take effect June 30, 1989.

Jerry Chandler, Vice-President of Haywood Crossings Condominiums, spoke in opposition to the annexations. He said the residents are prepared to take legal action against the annexations.

At the request of the Mayor, Patty Tallerday said the area is being qualified for annexation through the density of lots rather than population.

At the request of Mr. Wexler, Mayor Bissette entertained a motion to delay the final action on the annexations for 120 days.

No motion was received to delay action on the annexations for 120 days.

Several members of Council expressed concern that citizens are aware of proposals by the County to the City prior to City Council members being informed of such proposals.

At the request of the Mayor, Patty Tallerday said consideration of these annexations began two years ago and formal proceedings began on February 28, 1989 with the adoption of the resolutions of intent to annex, adoption of the plans for services on March 14, 1989, and the public hearing on April 18, 1989. She said property owners were officially notified of these proposed annexations four weeks before the public hearing and the notice of the public hearing was advertised in the paper two weeks before the public hearing.

Several unidentified individuals from the proposed annexation areas spoke in opposition to the annexations.

Ralph Bishop commented that Council did not notify the residents of the proposed annexations.

F. Ordinance No. 1761 - Third reading of an ordinance relative to annexation of an area known as the Skyland II Area.

Mayor Bissette said Pursuant to Part 3 of Article 4A of Chapter 160A of the N. C. General Statutes, the City of Asheville has examined certain areas to determine if they qualify for annexation. By Resolution No. 87-99, adopted June 2, 1987, the City of Asheville identified the Skyland II area as being under consideration for annexation.

Mayor Bissette said the ordinance was previously read on first and second readings and would not be reread in its entirety.

On a roll call vote of 7-0, Ordinance No. 1761 passed on third and final reading.

Ordinance Book No. 11 Page No. 438-440

G. Ordinance No. 1764 - Second reading of an ordinance amending Ordinance No. 1690 known as "An Ordinance for the levy and collection of business license taxes."

Mayor Bissette said North Carolina General Statutes, Chapter 105, Section 53 addresses Peddlers, Itinerant Merchants, and flea market operators. Ordinance No. 1690 in its present form does not define these classes, or is vague in its description. The revision is consistent with North Carolina General Statutes. The ordinance also reaffirms the rates outlined in the ordinance.

The City Manager said the Chamber of Commerce and the Council of Independent Business Owners were notified of the proposed ordinance and no adverse comments have been received. He presented members of Council with an example of the impact of the ordinance on different businesses.

On a roll call vote of 7-0, Ordinance No. 1764 passed on second reading.

H. Resolution adopting Minority and Women Business Procurement Plan.

Mayor Bissette said the Minority and Women Business Procurement Plan states the Policy of the City with regard to providing equal opportunity for minority and women owned business enterprises (M/WBE) in all aspects of City contracting and purchasing programs. The plan also includes goals for M/WBE participation in overall City contracting and procurement and describes responsibilities of the City and contractors to enhance efforts to meet the goals.

Mayor Bissette said after further discussions relative to the plan it has been recommended that the matter be remanded to the City's Minority and Women Enterprise (MEE/WEE) Advisory Committee for further study.

IV. NEW BUSINESS:

A. Approval of City of Asheville Classification and Pay Plan

The City Manager introduced John Maxwell, Vice-President of Municipal Advisors, Inc. who presented the new Classification and Pay Plan for City of Asheville employees.

Mr. Maxwell said the study received substantial employee involvement throughout the entire process. He said job description forms were completed, employee interviews were held and a salary survey was taken of other cities and the private sector.

Mr. Maxwell said it would be their recommendation to have 41 pay grades with a 5% difference between the grades; a 46% range between minimum and maximum; and the implementation of a longevity plan in order to conform competively. He also recommended a cost of living increase for employees. He said this plan would benefit longer term employees. He also suggested that the pay plan be updated yearly and a cost of living increase considered annually. He said cost of living increases and merit pay increases should be considered separately.

The City Manager presented members of Council with a plan to implement the recommendations presented by Municipal Advisors, Inc. He said the comprehensive package would include a merit plan and implementation of longevity. He said it would provide a combination of cost-of-living adjustment (COLA) and phasing individual employees into assigned pay range based on time in the classification; COLA applied to 6/30/89 base rate; assurance that all emplyees will make at least the minimum of the assigned pay range, effective 7/1/89; assurance that all full-time employees with a year or more in the classification will make at least a fixed percentage beyond the new minimum rate; 4% COLA; time in class assurance for at least 1-3-5-7 (or more) years (2.5%-5%-10%-20%). He said the steps would be to: 1) Apply COLA to employees 6/30/89 base pay; 2) Apply new minimum to employee's adjusted 6/30/89 base pay; 3) Apply time in class consideration to new minimum:

Years of Service	% Above Minimum
1 - 3	2.5%
3 - 5	5%
5 - 7	10%
7+	20%

Mayor Bissette said in his opinion this plan will meet the goals of the City of Asheville and he looked forward to implementation of the plan.

Ralph Bishop asked what the cost would be to implement the play and the cost to the taxpayers.

Council[illegible] moved to approve the Classification and Pay [illegible] as outlined by John Maxwell and the City Manager. This motion was seconded by Councilman Frank and carried unanimously.

Resolution No. 89-61 - Resolution authorizing the Vice-Mayor of the City of Asheville to execute a release and abandonment of easement for a water line easement located across the property of Centennial American Properties, Ltd.

At the request of Mayor Bissette, Councilman Price moved to excuse Mayor Bissette from participation and vote on Resolution No. 89-61 due to a conflict of interest. This motion was seconded by Councilman Martin and carried unanimously.

Councilman Price said this water line easement was for the 24" water main along Haw Creek behind K-Mart on South Tunnel Road. The water main was abandoned upon completion of the I-240 Tunnel Road Project which included re-routing of the 24" main down South Tunnel Road. The easement is no longer needed.

Upon motion of Councilman Martin, seconded by Councilman York, Resolution No. 89-61 was unanimously adopted.

Resolution Book No. 17 Page No. 405

V. CONSENT:

A. Resolution No. 89-62 - Resolution amending Resolution No. 88-120 appointing members to the City of Asheville Police Officers and Firefighters Disability Review Board.

SUMMARY: Resolution No. 88-120 appointed specifically Mayor W. Louis Bissette, Jr., to the Disability Review Board. The Vice-Mayor has been attending those meetings in place of the Mayor. It is, therefore, necessary to change the language of the appointment in the resolution. This resolution appoints the Mayor or the Vice-Mayor or the designee of either to be the appointment of the Asheville City Council to the City of Asheville Police Officers and Firefighters Disability Review Board.

Resolution Book No. 17 Page No. 406

C. Certification by the City Clerk as to the sufficiency of a petition to annex property located on U. S. 19-23

D. Resolution No. 89-63 - Resolution fixing date of public hearing on question of annexation of property located on U. S. 19-23 pursuant to N. C. Gen. Stat. Sec. 160A-58.2.

SUMMARY: The City of Asheville has received a petition from Mr. DeWayne Roberson requesting annexation of a noncontiguous area known as

Pawn World Gun Supply on Highway 19-23. The City Clerk has investigated the petition and has certified that it is sufficient.

Resolution Book No. 17 Page No. 407

E. Scheduling of public hearing relative to rezoning property on Buckstone Court at I-240 for June 6, 1989.

SUMMARY: The Asheville Planning and Zoning Commission on May 3, 1989, reviewed and recommended approval of rezoning Ward 8, Sheet 11, Lots 35-1/2 and 53 from R-3 Residential District to CH Commercial Highway District.

F. Scheduling of public hearing relative to amendment to sign package, Oakley Plaza Shopping Center Group Development for June 6, 1989.

SUMMARY: The Asheville Planning and Zoning Commission on May 3, 1989 reviewed the request of Crawford Sign Company to amend the sign package of Oakley Plaza Shopping Center to permit the Mandarin Plaza Chinese Restaurant to have a sign either 72 square feet, 40.25 square feet or 31.25 square feet. The Commission voted to recommend that the request be denied and that signage of 30 square feet be permitted in accordance with the original signage approval of 1 square foot of attached wall signage per linear foot of building frontage.

G. Scheduling of public hearing relative to amendment to sign package, Westgate Shopping Center Group Development for June 6, 1989.

SUMMARY: The Asheville Planning and Zoning Commission on May 3, 1989 reviewed the request of the Property Manager of Westgate Shopping Center to amend the sign package to permit the Spa Health Club to have a sign 31 square feet. The Commission voted to recommend that the request be denied and that signage of 25 square feet be permitted in accordance with the original approval which stipulated signage to conform with the Zoning Ordinance.

Upon motion of Councilman Martin, seconded by Councilman York, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

CLAIMS - TERRI PETTIS (POLICE) - TIM BECK (WATER) - OPAL LEE HILL (SEWER) - TED PEAY (SEWER) - DALE NEAL (SANITATION) - JOHN MILLER (SEWER)

The City Manager presented claims received from Terri Pettis, Tim Beck, Opal Lee Hill, Ted Peay, Dale Neal, and John Miller.

Mayor Bissette referred the claims to the City Attorney for investigation and recommendation.

LAWSUIT - ELMER O. BELLES V. CITY OF ASHEVILLE (SEWER BACK UP)

The City Manager said the city was served with a small claims action on May 11, 1989 involving Elmer O. Belles v. City of Asheville relative to a sewer back up.

Mayor Bissette referred the claim to the City Attorney for investigation and recommendation.

RALPH BISHOP - SELECTION OF NEW POLICE CHIEF

Ralph Bishop again made comments to members of Council relative to the selection of the new Police Chief.

VII. ADJOURNMENT

Mayor Bissette adjourned the meeting at 7:05 p.m.

MAYOR

William F. Wolcott
CITY CLERK

Tuesday - May 23, 1989 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell Martin and A. Robert York; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Vice Mayor Michalove.

MINUTES

Mayor Bissette announced the approval of the minutes of the Mayor 16, 1989 meeting as submitted.

I. PROCLAMATIONS:

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO COMMUNITY DEVELOPMENT OBJECTIVES FOR FY 90

RESOLUTION NO. 89-64 - RESOLUTION AUTHORIZING SUBMISSION OF A FINAL STATEMENT OF COMMUNITY DEVELOPMENT OBJECTIVES AND PROJECTED USE OF FUNDS TO THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR COMMUNITY DEVELOPMENT BLOCK GRANT ENTITLEMENT FUNDS FOR 1989-90

Mayor Bissette said at the conclusion of today's public hearing, the City Council will adopt a resolution which will authorize submission of CDBG entitlement application for 1989-90. funding will be used as follows:

Hill/Cherry St. area (Head of Montford) Impvt.	558,000
Neighborhood Housing Services Loan Pool	100,000
City-wide Housing Rehabilitation	100,000
Provision of sites for low income single-family housing	66,500
A-B Community Relations Council (Fair Housing & Equal Opportunity)	14,500
M/WBE Procurements and contracting	16,000
Community Development Administration	123,000
Comprehensive Planning	50,000
Contingency	9,000
Total Budget	1,037,000

Mayor Bissette opened the public hearing at 4:15 P.M.

The City Clerk presented the notice to the public and the affidavit of publication.

Marvin Vierra, Director of Community Development, this year's application for CDBG funds is a four percent increase over the current year. He said City staff had been meeting with the Montford Advisory Commission since mid April, and that a public hearing had been held at the Montford Community Center on May 1st.

Mr. Vierra said two new projects have been included in this year's application - the provision of sites for low income single-family housing and the M/WBE Procurements and contracting. He said the site program will provide 10 sites to the Habitat for Humanity over a 2-year period upon which to build homes that would sell for approximately $30,000. He said should the City Council decide not pursue the Minority Procurement Program, the funding will be put into contingency and will not be used.

Mr. Vierra answered questions from the Mayor and Council Members relative to other projects to be included in the Community Development Program for Fiscal Year 1990.

Cindy Weeks of the Mountain Housing Opportunity, Inc., 41 Montford Avenue, spoke in support of the application for CDBG funds. She said Mountain Housing Opportunity had been in operation since August 1, 1988, and over this period had completed 14 rehabilitation projects at a cost of $289 each. She said all projects had been undertaken using volunteer labor, and that most improvements had consisted of plumbing, electrical or roof repairs. She said the cost of the repairs were not high, but that the need was great. She said they had received very much support from the Housing Authority in the use of the Emergency Assistance Program and also in locating an office for the corporation on Montford Avenue.

Mr. Scott Dedman, Communicator Educator with the Pisgah Legal Services, thanked the City Council and Community Development staff for placing a renewed emphasis on housing improvements for low-income people. He said he understood that $66,500 in this year's program has been appropriated for building sites to be used by Habitat for Humanity for 10 single-family homes. He said the people who buy these homes will have their first chance of coming out of poverty and owning a home.

Mr. Dedman said the $320,000 designated for housing rehabilitation and the $100,000 for Neighborhood Housing Services, to develop a neighborhood-based loan pool in Montford, are programs badly needed and should benefit low-income homeowners and tenants.

Mr. Dedman said much good is being done through our Community Development dollars, but that more needs to be done. He said we should see a much greater percentage of the Community Development dollars benefit low-income people and very low-income people - those whose incomes fall below 50% of the median income or about $11,000 for a 2-person household. He said he would not belittle the needs of moderate-income families, those earning $20,000 to $25,000, but feels we should make the funds and programs available for those who need the assistance most.

Mr. Dedman said improvements need to be made in the Dollar-A-Lot Program to ensure that the funds do not go to those not eligible as was found when HUD checked in the program in 1986 and found that 22 of the 23 participating households were not low or moderate income. In addition, he said it is very difficult for low-income homeowners to get help from the Housing Rehabilitation Program due to the red tape involved. He said the red tape alone would make the repairs on many of the homes. Also, he said lower income families cannot afford a second loan to make up the difference between the money available under the rehab program and the cost of repairs; therefore, more of these funds are going to moderate-income families while the poor are losing the roof off their heads. However, he commended the Housing Authority for proposing a new emergency rehab grant program to assist the low-income homeowners in repairing severe problems such as leaking roofs and broken furnaces.

Lastly, Mr. Dedman said we must have a much stronger enforcement of the Housing Code for rental properties. He said enforcement has improved, but that we still need substantial changes in the code and enforcement. He said rental properties should be inspected regularly and not just when the tenants or the community complains.

Councilman Bratton requested that Mr. Dedman provide the Council with a recommendation of things the Council can do they could help to eliminate the red tape.

Peter Mencuso addressed the Council on the need for more shelters for the homeless. Mr. Mencuso said that he was homeless and that this problem is greater than people think it is. He said the homeless feel separated from the community. He said low-income housing is very important and is needed to better the community as a whole.

Dick Jackson said he is also homeless and handicapped. He said since he is living on a fixed income, it is hard to find housing in his income range.

Mayor Bissette said there does appear to be a real need for transitional housing and giving support while people are getting back on their feet. He said he hopes this is something the City of Asheville will be able to help with.

Councilman Price said we need to be aware of and address the problems of the homeless.

Mayor Bissette closed the public hearing at 4:45 P.M.

Mayor Bissette said that copies of this resolution were previously distributed to members of Council and will not be read in its entirety.

Councilman Frank moved for the adoption of Resolution No. 89-64. This motion was seconded by Councilman Bratton and carried unanimously.

Resolution Book No. 17, Page 408 and 409

III. OLD BUSINESS:

A. ORDINANCE NO. 1765 - AN ORDINANCE RELATIVE TO REZONING PROPERTY LOCATED AT 43 OAKLEY PLACE, PETITION OF DARRELL REDMOND BY CARLA TAYLOR, AGENT

Mayor Bissette said the Asheville Plannning and Zoning Commission on April 5, 1989 reviewed and recommended approval of rezoning Lot 19, Sheet 6, Ward 6 from R-3 Residential District to CS Commercial Service District. A public hearing was held and this ordinance passed on first reading on May 16, 1989.

Mayor Bissette said this ordinance was previously read and will not be reread in its entirety unless there is a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1765 passed on second reading.

B. ORDINANCE NO. 1766 - AN ORDINANCE RELATIVE TO REGULATING THE OPERATING OR MAINTENANCE OF AUTOMOBILE GRAVEYARDS AND JUNKYARDS IN THE ZONING JURISDICTION OF THE CITY OF ASHEVILLE

Mayor Bissette said the Asheville Planning and Zoning Commission on April 5, 1989 reviewed and recommended adoption of the ordinance. A public hearing was held and this ordinance passed on first reading on May 16, 1989.

Mayor Bissette said this ordinance was previously read and will not be reread in its entirety unless there is a specific request to do so.

Verl Emrick of the Planning Department requested that Council amend the ordinance by adding the following phrase after the word "vehicles" in the fifth line of the definition of Junkyard:

"boats, mobile homes, or trailers or parts thereof,"

Councilman Price moved to amend the ordinance as requested by Mr. Emrick. This motion was seconded by Councilman Martin and carried unanimously.

Mack H. Jones of Mack Used Auto Parts & Trust Parts at 1191 Sweeten Creek Road, addressed City Council about the necessity for the ordinance. He said he thought most, if not all, the junkyards in Asheville have fences around their property in Asheville, as well as making other beautification efforts. He pointed out to Council that they should consider the positive contribution junkyard dealers make to the City by providing a service to pick up junkcars. Otherwise, he said, junkcars would be everywhere. In addition, he said junkcar dealers save valuable space in the landfill. Mr. Jones said he had also participated last summer in a cooperative training effort where he donated 30 crushed junkcars to the Fire Department for use in a training program on removing wreck victims.

Mr. Jones said he believed most of the complaints being received are about junkcars at service stations and backyards. He said he objects to the ordinance, not because of the ordinance itself, but because he doesn't like government telling him what he can and cannot do with his property.

Mayor Bissette thanked Mr. Jones for his comments and also his contributions to the City of Asheville. However, he said, because some people may not have the same concerns expressed by Mr. Jones, there is a need for some type of minimal regulations.

On a roll call vote of 7-0, Ordinance No. 1766 passed on second reading, as amended.

C. ORDINANCE NO. 1763 - AN ORDINANCE REZONING PROPERTY AT 371 NORTH LOUISIANA AVENUE FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT FOR MR. EMMETT RAMSEY

Mayor Bissette said the Asheville and Planning Zoning Commission on April 5, 1989 reviewed and recommended approval of rezoning a portion of Lot 86, Sheet 17, Ward 6 from R-3 Residential District to CH Commercial Highway District.

Mayor Bissette said this ordinance was previously read and will not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1763 passed on third and final reading.

Ordinance Book No. 11, Page 445

D. ORDINANCE NO. 1764 - AN ORDINANCE AMENDING ORDINANCE NO. 1690 KNOWN AS "AN ORDINANCE FOR THE LEVY AND COLLECTION OF BUSINESS LICENSE TAXES"

Mayor Bissette said the North Carolina General Statutes, Chapter 105, Section 53 addresses Peddlers, Itinerant Merchants, and flea market operators. Ordinance No. 1690 in its present form does not define these classes, or is vague in its description. The revision is consistent with North Carolina General Statutes. The ordinance also reaffirms the rates outlined in the ordinance.

Mayor Bissette said this ordinance was previously read and will not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1764 passed on third and final reading.

Ordinance Book No. 11, Page 446-448

IV. NEW BUSINESS:

A. PRESENTATION OF THE CITY OF ASHEVILLE BUDGET FOR FISCAL YEAR 1989/1990 - SCHEDULING PUBLIC HEARING

City Manager Doug Bean said the Budget for Fiscal Year 1989/90 is a balanced budget totalling $55,473,000. He said the 1989/90 budget reflects a recommended tax increase of two-cents ($.02) per $100 valuation, which would make an effective tax rate of $.70 per $100 valuation. However, he said, even with a $.70 tax rate, the City of Asheville will have one of the lowest effective taxes rates in the State for any city over 50,000 in population.

Mr. Bean thanked the Council for their time and input in the preparation of the budget and also thanked the Budget Director Bob Wurst and his staff - Vicki Hiedinger and Debbie Wilson for their long hours of work in putting the budget together.

The City Manager summarized the following budget letter addressed to the Mayor and Members of City Council:

May 23, 1989

The Honorable Mayor and
Members of City Council
City of Asheville
Post Office Box 7148
Asheville, North Carolina 28802

Dear Mayor and Members of City Council:

In accordance with the North Carolina Local Government Budget and Fiscal Control Act, the recommended budget for Fiscal Year 1989-90 is presented for your consideration. This budget contains adequate revenues to meet expenditures while continuing all existing city services for the coming year. The following statistical summary shows the proposed budget for each fund along with a comparison of the budget for Fiscal Year 1988-89:

	Actual 1987/88	Budget 1988/89	Estimated 1988/89	Recommend 1989/9
GENERAL FUND	$29,983,373	$34,154,756	$33,797,548	$37,199,900
ENTERPRISE FUNDS:				
Parking Services	313,447	1,153,768	1,169,451	1,195,700
Civic Center	1,100,732	1,523,636	1,464,244	1,532,600
Festival Fund	0	0	0	670,400
Water Fund	13,317,935	13,131,650	13,325,116	14,538,200
Wastewater Maintenance	1,347,644	1,524,091	1,577,244	1,575,000
INTERNAL SERVICE FUNDS:				
Data Processing	869,675	958,374	988,507	1,043,500
Print Shop	178,275	197,819	195,203	212,200
Engineering	565,529	659,100	635,311	623,300
Motor Transport	1,848,343	1,989,842	1,956,059	2,020,500
Purchasing/Warehousing	447,971	465,002	495,182	491,700
LESS: INTERFUND TRANSFERS	-4,184,652	-4,423,000	-4,544,301	-5,630,000
TOTAL ALL FUNDS	$45,788,272	$51,335,038	$51,059,564	$55,473,000

NOTE 1: WATER OPERATING FUND BUDGET IS PRESENTED SEPARATELY
NOTE 2: SIGNIFICANT INTERFUND CHARGES ARE ELIMINATED

Not included in the statistical summary are the ongoing capital funds, which include the General Capital Reserve Fund, Street and Sidewalk Improvement Fund, Downtown Development Fund, Community Development Fund, and other ongoing capital project funds. Each of these funds have revenues which were appropriated to the capital item when the project was authorized. These funds do not need to be reappropriated on an annual basis.

FISCAL YEAR	BUDGETED 1987/88	ESTIMATED 1987/88	RECOMMENDED 1988/89
GENERAL CAPITAL RESERVE FUND	$ 6,949,594	$ 4,503,094	$ 6,872,700
STREET/SIDEWALK IMPROVEMENT FUND	6,211,190	7,203,461	6,120,500
COMMUNITY DEVELOPMENT FUND	933,345	940,000	844,300
WASTEWATER MASTER PLAN	1,813,710	2,554,559	2,999,400
TOTAL	$15,907,839	$15,201,114	$16,836,900

Also, you will note in the statistical summary that Internal Service Funds are listed for illustrative purposes only. These activities provide a service to other departments and the actual expense is budgeted within the appropriate departmental or divisional budget. We have subtracted from the budget summary the amount of funding for those services which are reflected in operating budgets.

The statistical summary indicates a 8.1% total budget increase and a proposed tax increase of $.02 per $100 of valuation. A number of items out of our control have created this situation. The loss of significant revenues from Buncombe County's law enforcement reimbursement and the pending litigation involving the West annexation have had a dramatic effect on the revenue forecast for the coming year. The implementation of a new pay plan, the continued subsidy of the parking garages, a significant increase in tipping fees and increased service levels to meet community expectations are the major factors contributing to the increase in the operating budget. These items will be discussed in more detail later in this budget message.

GOAL SETTING

The primary objective in preparing this budget was to develop a plan of services to meet the City of Asheville Mission Statement "...to provide for the professional delivery of public services, while being good stewards of public resources, in order to enhance the quality of life in Asheville and Western North Carolina." A special emphasis was placed on providing for the achievement of the City Council's "Strategic Plan" which was adopted in February of 1989. These goals and objectives along with the "2010 Asheville City Plan", provide the city-wide directive for

the Management By Objectives system. With the City Council setting city-wide goals and objectives and with the city budget being the instrument that allocates resources, we hope that objectives can be met on both an organizational and individual basis. The goal setting process is an integral and essential element in budget preparation. The 1989-1990 Budget reflects a number of service enhancements that are directly attributable to the City Council's goal-setting process.

BUDGET PROCESS

Throughout the budget process, an emphasis was placed on maintaining the current level of services while at the same time improving the quality of operations. Budgets were prepared at existing service levels and any "service enhancements" were presented separately. The review of the base budget and the service enhancements began earlier this year in anticipation of what we expected to be a difficult budget process. Departmental budgets were reviewed in detail by the Audit and Budget staff prior to my review with each department head. The City Council's work sessions provided excellent direction to the city staff in preparing a budget that meets your policy objectives. Throughout the budget process, we have continued to strive to improve the utilization of our existing resources in order to meet the increasing demand for city services.

BUDGET FORMAT

All funds listed in the statistical summary, along with capital project funds, are accounted for on a self-supporting basis. Specifically earmarked revenues and user charges have been established to more appropriately relate revenues to expenditures. General government services are primarily funded from state and local revenue sources. Civic Center, water, sewer, festival and parking user fees are the primary revenue source for those enterprise funds, while earmarked state and local tax revenues provide for the capital funds. In addition, services provided by one fund to another fund are accounted for on a cost recovery basis so that the true cost of operations can be reflected in the appropriate budget.

GENERAL FUND

The General Fund for 1989/90 reflects an increase of 8.9% over the 1988/89 budget. This increase may seem rather large; however, when adjustments are made for the new pay package, service enhancements, the additional cost of tipping fees, and the subsidy for the parking garages, the actual base budget has increased only 3.3%. This very modest increase in the base budget reflects a concerted effort on the part of departments to find more and better ways to meet the increased demand for services while controlling expenditures.

Revenues: The major revenue source in the General Fund is the Ad Valorem Tax. The 1989/90 budget reflects a recommended tax increase of $.02 per $100 valuation in order to meet required expenditures. The last tax increase for general operations was the two cent tax increase that was reflected in the 1986/87 budget. Even with a $.70 tax rate, the City of Asheville will have one of the lowest effective tax rates in the state for any city over 50,000 in population. The last reevaluation in Buncombe County was in 1982 and we are scheduled for a new reevaluation in the 1990/91 budget. Property assessment is, therefore, considerably behind market rates. When adjustments are made for market rates, the city's effective tax rate continues to be extremely low in comparison to other cities.

The projected Ad Valorem Tax of $13,888,600 is based on a 95% collection rate and an assessed value of $2,002,209,415. Despite the repeal of the Inventory Tax, this reflects a 3.5% increase in total valuation. Not reflected in the Ad Valorem Tax revenue is the anticipated increase from annexations that are currently in litigation. Most of the operating costs for the West annexation have already been absorbed in the annual budget even though revenues in excess of $500,000 cannot be realized until there is a final disposition of this case.

We continue to be concerned with the estimated 95% collection rate for Ad Valorem taxes. Each percent that is collected yields $140,155. A 96% rate was projected for 1989/90 and this reduction can be reflected as a direct revenue loss in the 1989/90 budget.

The second largest revenue source in the General Fund comes from the Local Option Sales Tax. It is estimated that this revenue source will increase by 14% in 1989/90. The Local Option Sales Tax is distributed based on tax levy and not on point of sale. Even though the majority of sales tax is actually collected within the City of Asheville, the City's contribution is based on the relationship of its tax levy to the County's tax levy, and any time the County tax rate goes up, the City's amount of sales tax distribution is reduced. At the present time, the City receives one cent unrestricted sales tax. There are two additional authorizations of one-half cent sales taxes, with each having a restriction that 40% of the funds have to be used for water and sewer purposes for a period of 5 years. One of the one-half cent sales taxes will have its restriction removed as of June 30, 1989, and we have budgeted $531,200 additional revenue in the General Fund from this unrestricted sales tax. In prior years, these funds were accumulating in the Sewer Master Plan Fund. The increase of total retail sales in Buncombe County and the effects of our previous annexations have had a significant effect on this revenue that we estimate to be $6,786,000 for Fiscal Year 1989/90.

The third major source of revenue in the General Fund is the State Utility Franchise Tax. This tax is based on gross sales from regulated railroads and utilities within the city limits. We expect to receive $2,625,000 from this source in 1989/90, which reflects a 12% increase over the previous fiscal year. The State Utility Franchise Tax has

proven over the years to be a reliable source of revenue with a steady, moderate amount of growth. This particular tax was used to secure the Certificates of Participation for the two new city parking garages. The 12% increase is based on the continued steady increase of sales from these utilities in Buncombe County combined with the effects of our recent annexations.

A new major revenue source that was reflected in the 1988/89 budget was the Inventory Tax Exclusion Reimbursement. This state-shared revenue was to take the place of the loss in Ad Valorem taxes due to the repeal of the Inventory Tax. Even though the state provided for a replacement revenue source, the amount is a fixed amount that does not allow for any significant growth. In 1989/90 we anticipate that we will receive $1,180,700, which is virtually the same amount that was received in 1988/89. Hopefully in future years, the General Assembly will find a way in which this revenue source can increase in much the same manner that the Inventory Tax would have increased had it not been repealed.

The Intangibles Tax provides $1,023,000 of revenue to the General Fund. This state-shared revenue is anticipated to increase 12% over the amount that was received in the current budget year, based once again on normal steady growth and the effects of our recent annexations.

In 1988/89 the Privilege License Ordinance was significantly revised. The new ordinance calculates a privilege license based on retail sales. This is a much more progressive way of levying a business tax than the old regressive flat rate. In addition, this new method has proved much easier to administer since the previous 464 classifications have been reduced to 175 classifications. Most of the existing classifications are patterned after those in state law. When the City Council decided to change the method of calculating privilege licenses, it decided that the change would be phased in over a two-year period. During 1988/89, the amount collected for privilege licenses was essentially the same as for the previous year. The Council decided to implement only 50% of the total rate, with the remaining 50% to be implemented in the 1989/90 budget. The estimated revenue of $332,000 reflects an increase of $102,000 due to the proposed full implementation of the new schedule, to be effective July 1, 1989.

The reimbursement from Buncombe County for law enforcement is estimated to be $1,000,000 in the 1989/90 budget. During the current fiscal year, we received $928,480. It should be pointed out that, based on the formula that was used for the first five years of the Water Agreement, we should be receiving approximately $1,300,000 per year. Since the formula was changed for the 1987/88 fiscal year, we anticipate that we have lost approximately $885,000 from this revenue source.

The Powell Bill allocation is budgeted for $1,441,000. This is up 10% from the current fiscal year based on annexations and the normal growth of this revenue. Unfortunately, we have not been able to increase our transfer from the General Fund into the Street and Sidewalk Fund as was anticipated in our 5-year budget. At the present time, we are

transferring $529,000, and we will continue that in the coming year. We had hoped to be able to increase this transfer to $864,600, but due to revenue shortfalls in the General Fund, no increase is anticipated.

Fees and Charges continue to be an area where there is a potential for revenue growth. For example, at the present time our building permits and inspection fees yield a revenue of $170,000. The cost for providing these services, however, is estimated at $668,700. The soil erosion enforcement fees yield a revenue of $53,000 with an actual cost of performing these services of $236,000. Areas such as these should be reviewed very closely so that more of the cost of the service can be recovered through the fee structure. I am confident that there are other areas within the city operations where fees are not covering the majority of the cost for providing the service.

Unfortunately, additional Fund Balance is appropriated in the 1989/90 budget in order to provide sufficient revenues to meet anticipated expenditures. The appropriated Fund Balance of $1,537,500 should be reviewed very closely in light of the fact that this is a one-time revenue source. Should all other revenues be realized at the budgeted amount, and should departments spend allocated funds, the Fund Balance would be exhausted and would not be available for future years' appropriations. This would mean that immediately in next year's budget, an excess of $1,000,000 of new revenues would have to be found. It is important to know that appropriated Fund Balance is only the amount available after putting aside a reserve of 15% of our operating budget. The primary reasons for the need of such a large amount of Fund Balance are as follows:

1. The cumulative effect of the reduction in law enforcement reimbursement from Buncombe County, the loss of rents from Airport property, and the effect of litigation in the West annexation area amount to approximately $1,850,000 of unrealized revenue.

2. The parking fund is realizing only enough revenue to pay operating costs and not to recover debt service. The total amount of debt service of $611,500 is now coming from the General Fund.

All other general revenues remain stable and are adequate to provide for a balanced budget.

Appropriations: General Fund appropriations for 1989/90 are $37,199,900, which represents an increase of 8.9%. As previously mentioned, the base budget without service enhancements and the implementation of the pay plan is up only 3.3%. This budget provides appropriations for continuing all basic general fund city services, along with increased levels of services in order to meet the City Council's goals and objectives.

A total of $502,000 has been included in this year's budget for service enhancements. Some of these items include funding for the development of a Risk Management Office - $73,200; the expansion of the year-round

park maintenance function - $101,200; a continuation of the Street Pavement Management Program - $11,700; the authorization of three new positions in the Planning Department - $83,400; three new Telecommunicators in the Police Department - $58,500; an additional MEG Officer - $28,100; an additional DARE Office - $24,000; an Inspections Aid - $21,200; and appropriations for part-time staff in the Planning Department for a sign survey and extending the extraterritorial zoning limits - $42,800. With the exception of service enhancements and the pay package, the only other areas where we have recognized increases in appropriations are in the areas of tipping fees and the installation of a new data processing system. Buncombe County has informed us that tipping fees will increase by $231,000, which will make our total cost for tipping fees $531,000. While the one-time start-up cost for our new computer system will come from the capital funds, there will be additional operating expenses in all departments for new and enhanced software.

WASTEWATER MAINTENANCE FUND

All of the present owners of wastewater collections systems in Buncombe County are working diligently on a plan to consolidate all of these systems with the Metropolitan Sewerage District. A committee has been meeting on a weekly basis for the past two months to arrive at a consolidation agreement that can be approved by all owners. It is the goal of this committee to have an approved consolidation agreement in effect in early July of 1989. Should consolidation take place, the City of Asheville would continue its maintenance operations for the fiscal year 1989/90, with the actual consolidation and transfer to take place on July 1, 1990. One sewer rate would be established by MSD and there would be no need for the City of Asheville to have a separate rate. Should consolidation take place, MSD would contract with the City for maintenance during the coming fiscal year.

Revenues: The major revenue for the Sewer Maintenance Fund is from sewer user charges. Estimated revenue from this charge for 1989/90 is $1,520,000. This does not reflect any increase over the 1988/89 budget. Revenues are sufficient to pay for operations in the coming year but, very significantly, do not generate enough funds to pay for any capital improvements out of the user charge. We had anticipated that there would be a contribution from utility charges into the sewer capital fund, but the existing rate will not support such a contribution. The proposed 1989/90 budget should be viewed as an interim budget in that it is sufficient only to continue a basic maintenance function. Should consolidation not take place, the City will be in the position of having to raise rates and possibly issue debt for future needed capital improvements to our system. It is only for this reason that a rate increase is not recommended in the 1989/90 budget. The Sewer Master Plan continues to be funded with unappropriated fund balance and 40% of the one-half cent sales tax. The other one-half cent sales tax that had been allocated to the sewer fund is no longer restricted for sewer uses and is this year being allocated in the General Fund.

Appropriations: The sewer maintenance budget for 1989/90 is $1,575,000. This represents a 3.3% increase over the 1988/89 budget but is virtually the same as the estimated actual appropriations in the current fiscal year. Without being able to make a contribution to the Sewer Master Plan Fund, appropriations are being used almost exclusively for personnel cost, materials and supplies.

The Sewer Master Plan is the area where a major effect will be felt from the consolidation under MSD. Projects that need to be undertaken in 1989/90 include the continuation of rehabilitation projects - $938,300, contracting for the installation of lines in newly annexed areas - $272,100, the construction of the new South Swannanoa Interceptor - $800,000, and the replacement of sewer laterals in conjunction with the Street and Sidewalk Program - $622,000. The current proposal for consolidation calls for MSD to pay the total cost of interceptor and rehabilitation projects with the City paying 50% of the cost of annexation projects. Should consolidation take place, we will need to amend our budget to reflect these new amounts. Should consolidation not take place, we will need to diligently search for additional revenues to continue with major sewer improvements.

PARKING SERVICE FUND

Fiscal Year 1988/89 was the first year that the two new garages, Wall Street and Rankin Avenue, were in operation in the Parking Service Enterprise Fund. We would hope that in future years revenues will not only pay for operations, but will also pay a significant portion of debt service.

Revenues: Of the total revenues of $1,195,700, the largest source ($630,200) comes from a contribution from the General Fund. Revenues from the three parking garages, parking meters, other parking lot rentals, and parking violations make up just less than 50% of the total revenues. The Civic Center Garage continues to generate approximately $200,000 per year in revenues; however, the Wall Street and Rankin Avenue garages together in 1988/89 realized revenues in the amount of only $79,200. We hope that with additional utilization by both monthly and turnover parkers the amount for these two garages will increase to $139,000 for 1989/90. Parking violation fines have become a significant part of our budget since we are now more vigorously enforcing our parking regulations and since we have changed from a criminal to a civil offense that allows us to retain all of the parking fines. The 1989/90 budget reflects $126,000 from parking violation revenues.

We are not recommending any changes in fees for any of our parking functions. We believe the parking garage rates should remain the same in order to increase current utilization. It is our feeling that any increase in rates would have a drastic effect on garage usage. Even though our parking study from several years ago recommended the installation of parking meters, we feel that it is too early to evaluate the success of our two new garages and believe that any other changes in on-street parking would also create much confusion and difficulty in evaluating our current parking situation.

The parking validation system that was developed by the Downtown Association has been very helpful in promoting the use of our garages. For the first eight months that this program was in operation, 164 rolls of validation stickers were sold producing revenue of $7,882. Through this program, merchants buy validation stickers from the City and give them to their customers. This provides the City with an up front revenue source and involves the merchants in promoting the use of the garages.

Appropriations: There are no significant changes in any of the appropriations for the parking garages for the coming year. The largest expenditure continues to be debt service - $611,500. Even with the deficit in the fund, we do not feel it is prudent at this point in time to try to cut back on personnel or services. It is important that the attendants' booths be staffed as much as possible and that adequate security be visible at all times. We feel that any cutbacks in these areas could have an adverse impact on the willingness of customers to use our parking facilities.

CIVIC CENTER FUND

The City's fiscal policy states that the General Fund subsidy to the Civic Center should not exceed 10% in any fiscal year. It is anticipated that the General Fund subsidy for the 1988/89 budget year will be 8 percent and the budgeted subsidy for the coming year is 9.4%. A total budget of $1,532,600 is virtually at the same level as the 1988/89 budget.

Revenues: The major revenue for the Civic Center Fund comes from charges for services which amount to $1,192,000. These charges are in the form of rents and sales. During the current fiscal year, several events were sponsored by the Civic Center that resulted in significant new revenues. It is anticipated in the coming year that the promotions budget will once again be utilized to bring entertainment to the Civic Center that is not being provided by independent private promoters.

One other significant revenue source is the arts subsidy. The Water Agreement called for Buncombe County to pay to the City of Asheville a rental fee for the Asheville Art Museum and the Asheville Symphony. We have been receiving $160,800 since the inception of the Water Agreement even though the Agreement calls for increases based on the Consumer Price Index. We have budgeted an increase in 1989/90 to $187,000. Buncombe County was informed some time ago of the need for a recalculation of this rent and we are hopeful that the additional rental will be made available in the coming year.

Appropriations: Appropriations for the general operation of the Civic Center amount to approximately $1,003,800. The additional $528,800 of appropriations comes mainly from promotions - $233,600; concessions - $145,800; and advertising services - $26,000.

FESTIVALS FUND

All of the costs associated with festivals have been removed from the General Fund and established in a separate enterprise fund. The $670,400 budget is fully supported by revenues generated from the two major festivals - Bele Chere and Light Up Your Holidays.

Revenues: Revenues from Bele Chere basically come from three sources: token sales - $450,000; sponsors - $150,000; and sales of Bele Chere items - $20,400. Light Up Your Holidays generates revenues of approximately $50,000 with $40,000 coming from sponsors and $10,000 from event sales.

Appropriations: Approximately one-half of the total appropriation goes to payment to vendors through the token system and for entertainment. Other major expenditures are in the area of purchases for resale of Bele Chere items and refreshments.

WATER FUND

In accordance with the Water Agreement, the Asheville-Buncombe Water Authority's annual budget must be approved by both the City of Asheville and Buncombe County. The budget as presented to you from the Water Authority is $14,538,200, which is a 10.7% increase over the 1988/89 budget.

Revenues: The major source of revenues is utility charges. Budgeted for 1989/90 is $13,735,700 which reflects a 4% rate increase to be effective July 1, 1989. This increase is in accordance with the long-range funding plan for the Master Plan Improvements that calls for annual 4% rate adjustments. The other significant revenue source is $467,500 for tap and connection fees.

Appropriations: The appropriations in the Water Fund are primarily in the area of maintenance and repair - $4,316,448; water production - $2,075,792; customer services - $685,663; and transfer to capital reserve - $2,500,000. Other expenses include equipment purchases, in lieu of tax payments, cost allocation plan reimbursements, engineering services and debt service.

The Water Budget that is reflected in your statistical summary is the budget that was initially approved by the Water Authority and by the Buncombe County Board of Commissioners. Since the general obligation bond referendum was defeated, there may need to be amendments during the year or a delay in proceeding with any of the major capital improvements.

CAPITAL FUNDS

The City of Asheville Capital Improvements Plan was updated during 1988/89 so that it continues to be a full 5-year planning document. Sufficient revenues are anticipated to fund all projects throughout the life of the plan. The 1989/90 budget reflects a continuation of the funding for the third year of the Capital Improvements Plan.

Revenues: Nineteen cents ($.19) of the City's tax rate is a reserve for capital improvements. Twelve cents ($.12) of that amount is for general capital outlay and seven cents ($.07) is reserved for the Street and Sidewalk Improvement Fund. In addition to these revenues, 40% of the Powell Bill allocation will go toward the Street Fund, which is at the same level that it was for 1988/89. Our 5-year budget calls for the 1989/90 Powell Bill contribution to the capital fund to increase to 60%, but due to the revenue shortfall in the General Fund, it was felt that an increased contribution would not be wise next year. Sixty (60) percent of one of the one-half cent sales taxes is being allocated to the general Capital Improvements Plan. These revenues, along with interest earned, are sufficient to fund the 1989/90 projects and to meet all debt service requirements for the Street and Sidewalk and Pack Place Projects.

The Downtown Development Fund contains revenues from General Revenue Sharing, Community Development Block Grants, Urban Development Action Grants, and other earmarked revenues. The Community Development Fund is self-supporting with a $844,300 grant from the federal government, and appropriations have been reduced in accordance with the reduction in the federal grant from $997,000 to $884,300.

Appropriations: General Capital Fund appropriations come directly from the Capital Improvements Program and are primarily utilized for equipment replacement, building construction and maintenance. Significant projects in this fund for 1989/90 include the energy conservation and renovation project of the interior of City Hall and the replacement of the Public Works Facility on South Charlotte Street. The City Hall Project is expected to be under construction in late 1989and is budgeted at $4,500,000. The Public Works Facility is now in the design phase and is budgeted at $2,100,000. It is proposed that both of these improvements be undertaken with a financing mechanism similar to that which was utilized for the two parking decks. Tax exempt financing will be issued with a repayment schedule of 20 years as it is currently indicated in our CIP. Other appropriations are $396,300 for the lease of a new radio communications system; $250,000 for repairs and improvements to various city facilities; and $300,000 for a capital contingency. The balance of the $1,668,700 budget is primarily for equipment replacement.

In December of 1988, $8,400,000 of General Obligation Bonds were sold - $5,400,000 of these bonds is for additional Street and Sidewalk Projects and $3,000,000 is for the construction of the Pack Place Education Arts and Science Center. The Street and Sidewalk funds will

be used almost exclusively for street rehabilitation. Virtually all sidewalk replacement work has been completed, and we are now in the process of repaving and reconstructing streets based on our pavement management system. There is still $2,800,000 of authorized bonds for future Projects.

The Pack Place Education, Arts and Science Center is now under construction. We would anticipate the full $3,000,000 of bond funds will be spent during the coming fiscal year.

The Downtown Development Fund contains appropriations for the City's responsibility in the three major redevelopment areas: Wall Street, Pack Square, and the Haywood/Rankin Avenue area. The Wall Street Project is virtually completed with only a small amount of streetscape work still unfinished. In the Rankin Avenue Project, funds are still available to complete the connection between the Rankin Avenue parking garage and Haywood Street. We would hope that this pedestrian walkway can be completed during 1989/90. In the Pack Square Project, the City's responsibility falls in the area of loans, a UDAG grant and debt service reserves for the Pack Plaza private project.

The Community Development Fund reflects the City's commitment to continuing all existing programs. A major expenditure of $396,300 goes to the implementation of the Montford Redevelopment Plan. The Neighborhood Housing Program is now underway, and $125,000 for the administrative cost of this program is budgeted in the 1989/90 budget.

PERSONNEL

The City of Asheville is a service organization. We are in existence only to provide services to the public. Those services are provided through our employees. It should not come as any surprise that approximately one-half of the City's operating budget is for personnel-related expenses. Our employees are the most valuable asset to our organization and to the community. It is incumbent upon us to manage this resource in such a manner as to provide fair and equitable pay policies, benefits that are commensurate with those given in other businesses in our area, and a working environment that encourages pride in self, pride in work, and pride in community.

Compensation: We have proposed in the coming year a total compensation package that basically includes the following three areas:

A. Pay Plan Implementation - On May 16, 1989, the City Council adopted a new Classification and Pay Plan as presented by our consultants, Municipal Advisors, Inc. This new plan is designed to provide for the accurate classification of all city employees and to ensure that our pay grades are commensurate with other cities of our size and with the private sector in Buncombe County. It is essential when a new pay plan is adopted that it be implemented in such a manner as to ensure that all employees are paid at least the minimum of the new pay range and that existing employees not find

themselves at the minimum pay grade by virtue of the raising of minimum salaries. The 1989/90 budget reflects an appropriation of $1,068,000 for the implementation of the pay plan. Taking into account the recommendations of Municipal Advisors, the available funding will provide for the following implementation steps:

1. A 4% across-the-board pay plan adjustment will be given to all existing employees as of July 1, 1989. This increase will allow all employees to share in the adjustments that will be made to salary ranges and somewhat lessen the compression effect.

2. After the 4% across-the-board adjustment is made, any employees who remain below their existing minimum will be adjusted to the minimum salary for their salary grade. We will therefore ensure that no existing employee will be making below the minimum salary level.

3. After the adjustment to minimum, existing employees will be guaranteed that they will be placed in the pay plan based on their time in their present grade. This will be accomplished with the following schedule:

1 to 3 years	=	2.5% above minimum
3 to 5 years	=	5.0% above minimum
5 to 7 years	=	10.0% above minimum
7 or more years	=	20.0% above minimum

By ensuring that employees with longevity in a particular grade are spread within the pay plan, the compression effect through adoption of a new salary schedule will be mitigated.

B. Merit Pay Plan - A merit pay plan is included in the 1989/90 budget at a total cost of $424,000. Objective criteria have been developed for each employee so that evaluations will be based on job related criteria. The three levels of pay that an employee can earn based on performance are:

Standard	-	2.0%
Above Standard	-	4.0%
Outstanding	-	5.5%

All employees will be evaluated on their anniversary date and will be eligible for one of these levels of merit pay. Employees who are not working at their job level and receive no pay increase will be reevaluated in six months to determine if their performance has improved. This will be the third year of a merit pay plan that is structured in the described manner. Even though the percentages are somewhat lower than the percentages in the past two years, the funds allocated should be adequate for a merit plan. It is essential that this plan be continued in order to provide incentives for our employees and to provide a method to fully integrate our MBO system down to the individual employee level.

C. Longevity Pay - With the adoption of a pay plan in 1986, the existing longevity plan for City employees was eliminated and some compensation for years of service was rolled into base salaries. Municipal Advisors recommended that a longevity plan be reinstituted since most cities in the State of North Carolina provide some compensation for years of service. There is value in city employees who have been with the city for a long period of time and who have exhibited their loyalty and dedication to the city organization. A very modest longevity plan at a cost of $115,500 has been included as part of our total compensation package in the 1989/90 budget. Longevity will be paid to all employees who are employed as of December 1, 1989. The payment will be based on years of service and be paid in a lump sum amount in early December. The following schedule has been recommended for the longevity plan:

5 to 10 years	=	$100
10 to 15 years	=	$200
15 to 20 years	=	$300
20 or more years	=	$400

All of the above-mentioned three elements are essential to a fair and equitable, total compensation package. By using a combination of pay plan adjustments, merit pay, and longevity, employees will receive varying amounts based on their quality of work, years of service, and the value of the position to the City of Asheville.

Group Insurance: We have recently been informed by our group insurance administrator that a significant rate increase is needed in 1989/90. The 45% increase is extremely large but is in keeping with the increases that other employers are experiencing. In order to cope with these additional costs that must be absorbed by both the City and the employee, we are taking a comprehensive look at our total benefit package. We have not budgeted the full rate increase in the 1989/90 budget, but will rather budget a smaller increase that we hope will carry through the first six months.

The City staff is working at the present time on developing a cafeteria plan for benefits that would be in place by January 1, 1990. A cafeteria plan basically gives an allowance to all employees which they can use to purchase a benefit package that is most suitable to them. For instance, there may be a basic health care plan that does not have the benefits that we currently provide, but that is cheaper than what we are now paying. An employee could purchase the cheaper group health plan or they could purchase one of two or three options that would provide a higher level of care. Employees would also be able to purchase varying levels of life insurance, disability insurance, and other benefits that the City would make available. Such a plan is becoming prevalent in the private sector and allows each employee, based on their family situation and stage in life, to tailor their own benefit package to meet their needs. We feel that with this approach both the City and the employee will be able to receive more for their money. We intend to work with our consultants to have such a plan to the City Council in the Fall for implementation by the beginning of the calendar year.

SUMMARY

The City of Asheville's budget for 1989/90 provides a plan for the allocation of resources to continue all basic city services. In addition, the budget provides funding for an expansion of some specific services that will assist in the implementation of the "2010 Asheville City Plan" and the City Council's "Strategic Plan." These two planning documents are integral to the budgeting process.

This has been a very difficult year to prepare a budget due to the uncertainties of annexation, the loss of several significant sources of revenue, and the pressures brought on by additional fixed costs. When the budget is compared to the City's Fiscal Policy, it becomes apparent that we are entering the new year in excellent financial condition. This is accomplished, however, through a proposed two-cent tax increase and an appropriation of fund balance in the amount of $1,537,500. Nobody likes tax increases, but even with this first increase in four years, the City's effective tax rate continues to be one of the lowes in the State of North Carolina. The appropriation of fund balance i larger than what I generally believe to be a safe appropriation of n more than 50% of available fund balance after establishing an operating reserve. Fund balance is not a reoccurring revenue and once it is used, it is unavailable for future years. It is truly unfortunate that the use of fund balance and the need for a tax increase were brought about by actions beyond the city's control.

Even though this was a difficult budget to assemble based on the many uncertainties that face us, we have provided the resources to deliver the quality of services that the citizens of Asheville have come to expect. The city staff is dedicated to seeking out opportunities to better utilize the resources that we have at our disposal, continuing to provide essential services, and treating all of our public customers with dignity and respect.

The preparation of a budget involves a great many people. Department and Division Heads should be congratulated on the excellent budget requests they assembled. In addition to their work on this year's budget, much of the success in holding expenditures to a minimum is due to the work of the Department and Division Heads in their day-to-day operations. Their participation in cost-saving programs and their willingness to try new and innovative ideas is an indication of their professionalism. I would like to thank not only these Department Heads, but also the administrative staff who worked very hard assembling the budget. The Audit and Budget Department, Vicki Heidinger, Debbie Wilson and especially the Director Bob Wurst should be commended for their hard

work and dedication. I would also like to give a special thanks to the entire City Council who gave many hours of their time reviewing the budget. Your input during the preparation of this budget was essential in continuing the philosophy of providing the highest level of services at the lowest possible cost.

Sincerely,

s/

Douglas O. Bean
City Manager

DOB:msm

Councilman Bratton moved to schedule a public hearing on the Budget for Fiscal Year 1989/90 for June 13, 1989. This motion was seconded by Vice Mayor Michalove and carried unanimously.

Mayor Bissette said the City Manager and staff had done an excellent job in preparing the budget. He said this year's tax increase will be only the second tax increase Council has initiated since he 1983.

B. APPROVAL OF THE WATER FUND BUDGET FOR FISCAL YEAR 1989/1990

Mayor Bissette said the Water Agreement between the City of Asheville and Bucombe County provides that both governing bodies shall approve the annual Water Budget.

Mayor Bissette recognized Don Williams, Member of the Asheville-Buncombe Water, who presented and summarized the budget.

Mr. Williams said this year's budget had been prepared by the Water Authority Budget Committee Members - George Beverly, Dick Wood and himself. He said this committee had spent a lot of time reviewing with the staff the various requests. He said the budget, as presented today, was approved by the Water Authority and the Buncombe County Board of Commissioners on May 16, 1989.

Mr. Williams said the budget reflects a four percent (4%) increase which will be effective July 1, 1989.

Mr. Williams said since the water bond referendum had failed, the $534,000 appropriation for the French Broad River Treatment Plant, shown on page 40, will be taken out. He said the failure of the Bond Referendum will not have a financial impact on this year's budget, but there will be an impact beginning in 1991 and later years.

Councilman Frank left the meeting at 5:30 P.M.

After discussion, Councilman Martin moved to approve the Water Budget contingent upon the deletion of any reference to funding for the French Broad River Treatment Plant or any related facility. This motion was seconded by Councilman Bratton and carried unanimously.

Jeff Fobes, Citizens for Safe Drinking Water, said Council's decision to approve the Water Budget without appropriating money for the French Broad River Treatment Plant will be appreciated by the citizens of Asheville.

C. **REPORT BY CITY CLERK ON THE CANVASS OF THE SPECIAL WATER BOND ELECTION HELD ON MAY 16, 1989**

The City Clerk said the Buncombe County Board of Elections had provide him with a Certificate of Canvass of the special water bond election held on May 16, 1989. He said the total number of voters who voted "YES" was 2925 and the total number who voted "NO" was 4753. He said the total number of voters who were registered and qualified to vote was 33,743.

Councilman Price requested that a letter be sent to members of the Water Bond Committee thanking them for their service and assistance.

D. **ORDINANCE NO. 1767 - BUDGET ORDINANCE AMENDMENT TO APPROPRIATE ADDITIONAL FUNDS TO THE MAIL/MESSENGER DIVISION FOR POSTAGE**

Mayor Bissette said this budget amendment in the amount of $12,000 is necessary to appropriate additional funds for postage due to a substantial increase in the number of pieces of mail that is processed through the Mail Services Division.

Mayor Bissette said that copies of this ordinance were previously distributed to members of Council, and the ordinance would not be read in its entirety unless there was a specific request to do so.

Councilman Price moved for the adoption of Ordinance No. 1767. This motion was seconded by Councilman Martin.

On a roll call vote of 7-0, Ordinance No. 1767 passed on first and final reading.

Ordinance Book No. 11, Page 451

E. RESOLUTION NO. 89-65 - RESOLUTION ENDORSING THE FISCAL YEAR 1990 TRANSPORTATION IMPROVEMENT PROGRAM - ASHEVILLE URBAN AREA

Mayor Bissette said this resolution will endorse the recommendations of the Asheville Urban Area Transportation Advisory Committee and requests that the State of North Carolina include these priorities in the State of North Carolina Transportation Improvement Program. The Committee has recommended acceleration of the following projects:

1) The construction of a new interchange at &S 25A (Sweeten Creek Road) and I-40 <Project I-100>;

2) The construction of the I-26 Corridor <Project A-10>;

3) The widening of NC 63 (Leicester Hwy) from City Limits to Newfound Road (SR 1004) <Project U-2000> to parallel with the completion of Project U-529; and

4) The widening of Fairview Road (US 74) between I-40 and SR 3136 <Project R-2306>

Mayor Bissette said that copies of this resolution were previously distributed to members of Council, and the resolution would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman York, seconded by Councilman Martin, Resolution No. 89-65 was unanimously adopted.

Resolution Book No. 89-65, Page 410

V. CONSENT:

VI. OTHER BUSINESS:

A. MOTION SCHEDULING PUBIC HEARING FOR A GRANT APPLICATION TO UMTA FOR OPERATING, PLANNING AND CAPITAL FUNDS UNDER SECTION 9 OF THE UMTA ACT

Mayor Bissette said this motion will schedule a hearing on the City's annual grant application to UMTA for the Asheville Transit Authority for operating, planning and capital funds under Section 9 of the UMTA Act.

Vice Mayor Michalove moved to schedule a public hearing for June 27, 1989. This motion was seconded by Councilman Price and carried unanimously.

B. CLAIMS - JODY PADGETT (WATER) AND KAREN WALLEN (WATER)

The City Manager presented claims received from Jody Padgett (Water) and Karen Wallen (Water).

Mayor Bissette referred to claims to the City Attorney for investigation and recommendation.

ANNOUNCEMENT BY MAYOR BISSETTE - CLEAR CUTTING AT NORTH FORK

Mayor Bissette said he understands the Water Authority is currently reviewing the policy to avoid future problems relative to clear cutting at North Fork.

PRESENTATION OF PETITION BY GARLAND WADE RELATIVE TO NOISE AT VME

Mr. Garland Wade presented a petition to the Mayor and Members of City Council relative to the noise at VME that is disturbing him and other residents who live on Atkins Street in Skyland. The petition requested enforcement of the City's Noise Ordinance. Mr. Garland said the noise from the heavy equipment starts around 5:15 A.M.

Mayor Bissette said the City would look into the problem.

REMOVAL OF TREES - PRIVATE PROPERTY - COUNCILMAN PRICE

Councilman Price said she had received a lot of letters concerning the trees that were cut down for the development taking place on Merrimon Avenue. She said she understood that the trees were on private property and inquired about the status of legislation to regulate trees on private property.

City Attorney William F. Slawter said the North Carolina Legislature had passed some limited legislation regulating trees on private property, which applied only to "Champion" trees only. However, he said there is currently a bill going before the General Assembly for the Town of Chapel Hill that is thought to be broader in providing more regulation.

There was a general discussion among the Council on available options and avenues that can be explored to regulate trees on private property. It was their consensus, however, that the City Attorney obtain a copy of the Chapel Hill Bill and provide the Council with a report on what they can or cannot do to regulate and protect trees on private property.

VII. ADJOURNMENT

Mayor Bissette adjourned the meeting at 6:00 P.M.

MAYOR

CITY

Tuesday - June 6, 1989 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell Martin and A. Robert York; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Councilman Frank.

APPROVAL OF MINUTES

Mayor Bissette announced the approval of the minutes of the May 23, 1989 meeting as submitted.

I. PROCLAMATIONS:

A. Resolution No. 89-66 - Resolution in memory of Bob Waters.

Mayor Bissette read a resolution expressing Council's sorrow over the recent passing of Bob Waters, Western Carolina University's coach for more than twenty years.

Upon motion of Councilman York, seconded by Councilman Price, Resolution No. 89-66 was unanimously adopted.

Resolution Book No. 17 Page No. 411

B. Proclamation - "Management Week" - June 5 - 10, 1989

Mayor Bissette read the proclamation and presented a copy to Jim Tyson and Iris Wardlaw with the National Management Association.

C. Proclamation - "Rape Prevention Month" - June, 1989.

Mayor Bissette read the proclamation and presented a copy to Leigh Dudazik, Executive Director for Rape Crisis Center for Buncombe, Madison, and Henderson Counties.

D. Presentation of award by Quality Forward.

Susan Roderick with Quality Forward presented William F. Wolcott, Jr., Associate City Manager with an Environmental Excellence Award from Quality Forward for his outstanding efforts in the landscape work around the Municipal Parking decks. Mr. Wolcott was instrumental in the construction of these projects.

II. PUBLIC HEARINGS:

A. Public hearing relative to rezoning property located at Buckstone Court and I-240.

Ordinance No. 1768 - Ordinance rezoning property located at Buckstone Court and I-240.

Mayor Bissette said the Asheville Planning and Zoning Commission on May 3, 1989, reviewed and recommended approval of rezoning Ward 8, Sheet 11, Lots 35-1/2 and 53 from R-3 Residential District to CS Commercial Service District.

Mayor Bissette opened the public hearing at 4:20 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Don Sherrill, from the Planning Department, presented the recommendation of the Planning and Zoning Commission. He also reviewed the surrounding zoning and uses of property. He said the rezoning would be in accordance with the 2010 plan.

Mayor Bissette closed the public hearing at 4:26 p.m.

Councilman Martin moved for the adoption of Ordinance No. 1768. This motion was seconded by Vice-Mayor Michalove.

On a roll call vote of 7-0, Ordinance No. 1768 passed on first reading.

B. Public hearing relative to amendment to sign package - Westgate Shopping Center Group Development

Mayor Bissette said the Asheville Planning and Zoning Commission on May 3, 1989 reviewed the request of the Property Manager of Westgate Shopping Center to amend the sign package to permit the Spa Health Club to have a sign 31 square feet. The Commission voted to recommend that the request be denied and that signage of 25 square feet be permitted in accordance with the original

approval which stipulated signage to conform with the Zoning Ordinance.

Mayor Bissette opened the public hearing at 4:28 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Don Sherrill, from the Planning Department, presented the recommendation of the Planning and Zoning Commission that the request for a 6 square foot variance be denied and that signage of 25 square feet be permitted as original approved.

Richard Drexler, Property Manager for Westgate Corporation, said he had been with Westgate since March, 1989. He said the sign request is from a major tenant of Westgate, Spa Health Club.

Several members of Council expressed concern that the sign was erected without first obtaining a sign permit.

Mayor Bissette closed the public hearing at 4:40 p.m.

After discussion, Councilman Price moved to approve the request to allow for a 31 square foot sign for the Spa Health Club. This motion was seconded by Councilman Bratton.

On a voice vote of 4-3, Councilman Price's motion failed with Councilmen York, Price, and Bratton voting "aye" and Mayor Bissette, Vice-Mayor Michalove, Councilman Frank and Councilman Martin voting "no".

C. **Public hearing relative to amendment to sign package-Oakley Plaza Shopping Center Group Development**

Mayor Bissette said the Asheville Planning and Zoning Commission on May 3, 1989 reviewed the request of Crawford Sign Company to amend the sign package of Oakley Plaza Shopping Center to permit the Mandarin Plaza Chinese Restaurant to have a sign either 72 square feet, 40.25 square feet or 31.25 square feet. The Commission voted to recommend that the request be denied and that signage of 30 square feet be permitted in accordance with the original signage approval of 1 square foot of attached wall signage per linear foot of building frontage.

Mayor Bissette opened the public hearing at 4:42 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Don Sherrill, from the Planning Department, presented the recommendation of the Planning and Zoning Commission. He said since the Commission meeting Crawford Sign Company has agreed to accept the recommendation of the Planning and Zoning Commission. However, the request would still need to have Council's approval since it is different from the original sign package approved by Council.

Mayor Bissette closed the public hearing at 4:46 p.m.

Councilman Frank moved to amend the sign package of Oakley Plaza Shopping Center to permit the Mandarin Plaza Chinese Restaurant to have signage of 30 square feet in accordance with the original signage approval of 1 square foot of attached wall signage per linear foot of building frontage. This motion was seconded by Councilman Martin and carried unanimously.

D. Public hearing relative to annexing a noncontiguous area on U.S. 19-23 known as Pawn World Gun Supply.

Ordinance No. 1769 - An ordinance annexing a noncontiguous area on U. S. 19-23 known as Pawn World Gun Supply.

Mayor Bissette said the City of Asheville has received a petition from Mr. DeWayne Roberson requesting annexation of a noncontiguous area known as Pawn World Gun Supply on Highway 19-23. The City Clerk has investigated the petition and has certified that it is sufficient.

Mayor Bissette opened the public hearing at 4:47 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Patty Tallerday, from the Planning Department, presented a detailed map of the property proposed for annexation. She said the property is within 1.98 miles to the nearest city limit line. She also presented a brief video of the property . She said the property is a one acre lot with mixed use.

Upon inquiry of Council, Ms. Tallerday said the petitioner wishes to be annexed into the City since he can not operate a pawn shop in the county. She said the State had first informed him that he could; the petitioner paid the state for his licenses and now they are saying that he can not operate in the county.

Ms. Tallerday said it would be in the best interest of the City to negotiate a contract with Enka Volunteer

Fire Department for fire services at a cost of $78.00 per year. She said the Buncombe County Sheriff's Department has agreed to continue furnishing police protection at no cost. She said the streets will become city system streets. She said revenues for the property will be $1,117.00 plus fees and licenses.

Councilman York suggested that prior to the third reading of the ordinance, the City Attorney come up with an agreement with the petitioner to waive garbage pick up pending the outcome of the entire annexation area which is in court at the present time.

Mayor Bissette closed the public hearing at 4:56 p.m.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Frank moved for the adoption of Ordinance No. 1769. This motion was seconded by Councilman York.

On a roll call vote of 7-0, Ordinance No. 1769 passed on first reading.

III. OLD BUSINESS:

A. **Ordinance No. 1765 - Third reading of an ordinance relative to rezoning property at 43 Oakley Place, petition of Darrell Redmond by Carla Taylor, Agent.**

Mayor Bissette said the Asheville Planning and Zoning Commission on April 5, 1989 reviewed and recommended approval of rezoning Lot 19, Sheet 6, Ward 6, from R-3 Residential District to CS Commercial Service District.

Mayor Bissette said the ordinance previously passed on first and second readings and would not be reread in its entirety.

On a roll call vote of 7-0, Ordinance No. 1765 passed on third and final reading.

Ordinance Book No. 11 Page No. 449

B. **Ordinance No. 1766 - Third reading of an ordinance relative to regulating the operating or maintenance of automobile graveyards and junkyards in the zoning jurisdiction of the City of Asheville.**

Mayor Bissette said the Asheville Planning and Zoning Commission on April 5, 1989 reviewed and recommended adoption of the ordinance. This ordinance previously passed on first and second reading.

Mayor Bissette said the ordinance previously passed on first and second readings and would not be reread in its entirety.

Mack Jones from Sweeten Creek Road spoke in opposition to the ordinance. He said he had also opposed the zoning of his property when it was originally zoned since the zoning made his business a nonconforming use. He said his property should be zoned to Heavy Industrial to allow for his junkyard.

Mayor Bissette told Mr. Jones that the staff would look into the zoning of his property.

On a roll call vote of 7-0, Ordinance No. 1766 passed on third and final reading.

Ordinance Book No. 11 Page No. 450

C. Ordinance No. 1762 - Second reading of an ordinance amending Article 13 of Chapter 30 of the Code of Ordinance of the City of Asheville to create the Albemarle Park Historic District.

Mayor Bissette said the Asheville Planning and Zoning Commission on April 5, 1989 reviewed the request of the Albemarle Park-Manor Grounds Association, through the Historic Resources Commission, that their area be designated a local historic district. The Commission voted to recommend approval of the designation and to exclude the property on Charlotte Street south of the Gatehouse zoned CG Commercial General.

Mayor Bissette said at the May 16, 1989 meeting Council remanded the six (6) properties on Charlotte Street to the Planning and Zoning Commission for further consideration. He said Council also postponed the second reading of the ordinance until June 6, 1989 to give the property owners an opportunity to meet with Jim Daniels and R. L. Bailey, owners of some of the lots facing on Charlotte Street.

Rich Matthews, property owner in Albemarle Park, said it is his understanding that R. L. Bailey and Jim Daniels still do not want their properties included in the historic district. He requested that Council remand the entire area to the Planning and Zoning Commission for further consideration and still give more time to work with Mr. Bailey and Mr. Daniels.

Vice-Mayor Michalove commented that Council has still reserved the right to consider including the six (6) lots at a later date by their previous action to remand the properties to the Planning and Zoning Commission.

He said Council, in his opinion, should still consider individual property rights. He said he would be in favor of continuing with the second reading of the ordinance.

Councilman Martin moved to remand the entire area to the Planning and Zoning Commission for further consideration. This motion was seconded by Councilman Frank and carried on a voice vote of 6-1, with Vice-Mayor Michalove voting "no".

IV. NEW BUSINESS:

A. **Resolution No. 89-67 - Resolution authorizing the City Manager to execute a contract on behalf of the City of Asheville with General Administrators, Inc. for Group Health Insurance.**

Mayor Bissette said General Administrators, Inc. proposes a rate considerably less than Blue Cross/Blue Shield to administer our plan at the same benefit level. In addition they agreed to a six months contract which would allow us to work toward the implementation of the cafeteria plan by January 1, 1990.

John Miall with the Management Services Division said the references received on General Administrators, Inc. was outstanding.

James Brunson, with General Administrators, Inc., said his company currently administers many plans and will provide no loss - no gain benefits to the employees.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 89-67 was unanimously adopted.

Resolution Book No. 17 Page No. 412

B. **Resolution No. 89-68 Resolution authorizing the condemnation of property in the Murdock Avenue Bridge Replacement Project.**

Mayor Bissette said the Asheville Housing Authority has been unsuccessful in negotiating a settlement with the owner of Parcel 4 of the Murdock Avenue Bridge Replacement Project. Condemnation of Parcel 4 is necessary to acquire the portion required for replacement of the Murdock Avenue Bridge.

Upon motion of Vice-Mayor Michalove, seconded by Councilman Price, Resolution No. 89-68 was unanimously adopted.

Resolution Book No. 17 Page No. 413

C. Resolution No. 89-69 - Resolution authorizing the condemnation of property in the Hazel Mill Road Bridge Replacement Project.

Mayor Bissette said the Asheville Housing Authority has been unsuccessful in negotiating a settlement with the owner of Parcel 5 of the Hazel Mill Road Bridge Replacement Project. Condemnation of Parcel 5 is necessary to acquire the portion required for replacement of the Hazel Mill Road Bridge over Southern Railway.

Upon motion of Vice-Mayor Michalove, seconded by Councilman Price, Resolution No. 89-69 was unanimously adopted.

Resolution Book No. 17 Page No. 414

ACTION RELATIVE TO AMENDING SITE PLAN FOR OAKLEY PLAZA (FORMERLY THE CHEROKEE PLAZA)

Mayor Bissette was excused from participation and vote on the amendment to the site plan for Oakley Plaza due to a conflict of interest.

Vice-Mayor Michalove presided over the meeting during this issue.

Councilman Bratton moved to amend the site plan for the Oakley Plaza (formerly the Cherokee Place) Shopping Center, originally approved June 9, 1987, so as to provide for the developer's participation in sewer construction in the sum of $30,000.00, to provide for an expenditure of $6,000.00 by the developer in additional landscaping to be approved by City Planning Staff, and to delete the requirement that the developer participate in the construction of public sidewalks. In addition, the City Manager shall be authorized to execute an agreement with the developer providing for these improvements. This motion was seconded by Councilman Frank and carried unanimously.

VI. OTHER BUSINESS:

CLAIMS - KENNETH MCAFEE (WATER) - GENEVA LAMB (WATER) - MAXINE WEAVER (WATER)

The City Manager presented claims received from Kenneth McAfee, Geneva Lamb, and Maxine Weaver.

Mayor Bissette referred the claims to the City Attorney for investigation and recommendation.

LAWSUITS - PETER R. FALCIGNO, JOAN HOLMES VS. CITY OF ASHEVILLE (SEWER BACKUP)

The City Manager said the city was served with a small claims action on May 25, 1989 involving Peter R. Falcigno, Joan Holmes v. City of Asheville relative to a sewer backup.

Mayor Bissette referred the action to the City Attorney for investigation and recommendation.

STATEMENT BY PRESIDENT OF THE FRATERNAL ORDER OF POLICE - PAY PLAN

Tommy Aardema, President of the Fraternal Order of Police, read a prepared statement which in essence said the new pay plan is totally unacceptable to the members of the Fraternal Order of Police. He said the pay plan is an insult to members of the Asheville Police Department. He said they are requesting a 12.5% cost-of-living increase; merit pay of 4% - 6% - 7.5% and longevity in the amount of $250 for employees employed for five (5) years and $50.00 for each year thereafter. He said this plan would provide adequate pay for the police officers.

Mr. Aardema said the police officers scheduled a rally today in front of the City Building in opposition to the pay plan.

Ms. Lennie Sidnick, from the Grove Park area, spoke in support of the police officers proposal and in general.

The City Manager said that a City Council meeting was not the forum or the place for him to speak to employees about administrative issues. He apologized for the employees taking this approach to the pay plan issue. He commented that the pay plan is adopted every year when the budget is adopted and is subject to annual appropriations. He said $1 million has been put into the budget to implement the new pay plan. He again highlighted the new pay plan. He said every city employee would be attending sessions on the new pay plan and given a printout of the pay schedule.

Mayor Bissette said he wanted to be certain that pay plan is competitive. He said as long as he knows that every employee is on a competitive level with cities in this region he would be satisfied or at least as satisfied as he can be given the political reality that there is only so much money to go around. He said if the plan is competitive he feels the Council has fulfilled their responsibility.

Councilman Bratton said employees are the most valuable product and she expressed concern that the employees feel they can not express their concerns to management rather than Council.

Vice-Mayor Michalove said he was also concerned that the employees feel they have to bypass management. He said he felt this process is unhealthy and employees and managers should create a communication process. He asked that this process begin as quickly as possible.

Councilman Martin said in his opinion the employees have a right to object to the plan, however, procedures have not been followed to make those objections.

Councilman Frank said she felt the proposed pay plan is fair and reasonable.

Councilman York said he also felt the pay plan should be competitive and in his opinion it is fair and reasonable. He said he would like for the communication dialogue to improve between employees and management.

VII. ADJOURNMENT

At 6:15 p.m. Vice-Mayor Michalove moved to adjourn the meeting and for Council to go into executive session. This motion was seconded by Councilman Bratton and carried unanimously.

MAYOR

CITY CLERK

Tuesday - June 13, 1989 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Wilhelmina Bratton, Russell Martin and A. Robert York; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Norma T. Price

INVOCATION

The invocation was given by Councilman Bratton.

APPROVAL OF MINUTES

Mayor Bissette announced the approval of the minutes of the June 6, 1989 meeting as submitted.

I. PROCLAMATIONS:

A. Proclamation - "Soap Box Derby Day" - Saturday, June 17, 1989

Mayor Bissette read the proclamation and presented a copy to Mike Ray and Peter Phelps with the West Asheville Rotary Club. The West Asheville Rotary Club is sponsoring the Soap Box Derby Day in cooperation with the Asheville Parks, Recreation, and Public Facilities Department.

II. PUBLIC HEARINGS:

A. Public hearing and adoption of the City of Asheville Budget for 1989-90.

Mayor Bissette said this public hearing will allow for public comments on the City of Asheville Budget for 1989-90. Funding is to be provided to operate city services for the period of July 1, 1989 to June 30, 1990.

Mayor Bissette opened the public hearing at 4:15 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

The City Manager said since the budget was presented it has been determined that the tax rate collection may be at 94 percent which would leave a $140,000 shortfall in the recommended budget since the budget was prepared anticipating a 95 percent collection rate on the 1988-89 levy. He said because the state law allows cities to budget only the amount of tax collection percentage that was achieved the year before, the city could lose another $140,000 in the coming year by projecting a 94 percent collection rate rather than the 95 percent rate that is now in the proposed budget.

He said the county officials have agreed verbally to reimburse the city $270,000 for law enforcement services city taxpayers paid for last year through their county tax bills but did not receive because the sheriff's department doesn't patrol inside the city.

He suggested that action on the budget be delayed until the county budget is adopted to see if the County appropriates the $270,000 as agreed upon and to determine whether the county tax office increases its collection rate, which directly affects the amount of tax revenue the city receives each year. He said the proposed budget includes a 2¢ tax rate increase and if the collection rate does not change and the county does not appropriate the $270,000 the city could be faced with an additional 1-1/2¢ tax rate increase.

Mayor Bissette said he was concerned about the tax collection rate since it would have a tremendous effect on the budget and most other cities in North Carolina have a collection rate of 97% - 98%.

Ralph Bishop commented on the law enforcement reimbursement from the County.

Councilman Martin moved to continue the public hearing on the budget for one week without further advertisement. This motion was seconded by Councilman Frank and carried unanimously.

III. OLD BUSINESS:

A. Ordinance No. 1768 - Second reading of an ordinance rezoning property located at Buckstone Court and I-240.

Mayor Bissette said the Asheville Planning and Zoning Commission on May 3, 1989, reviewed and recommended approval of rezoning Ward 8, Sheet 11, Lots 35-1/2 and 53 from R-3 Residential District to CH Commercial Highway District. This ordinance was read on first reading on June 6, 1989.

B. **Ordinance No. 1769 - Second reading of an ordinance relative to annexing a noncontiguous area on U.S. 19-23 known as Pawn World Gun Supply.**

Mayor Bissette said the City of Asheville has received a petition from Mr. DeWayne Roberson requesting annexation of a noncontiguous area known as Pawn World Gun Supply on Highway 19-23. The City Clerk has investigated the petition and has certified that it is sufficient. This ordinance passed on first reading on June 6, 1989.

Mayor Bissette said the ordinance was previously read on first reading and would not be reread in its entirety.

On a roll call vote of 6-0, Ordinance No. 1768 passed on second reading.

IV. NEW BUSINESS:

V. CONSENT:

A. **Approval of sale of Disposal Parcel 179 of the East Riverside Urban Renewal Project.**

SUMMARY: The Housing Authority has tentatively accepted a bid from Jennifer Scoville for Disposal Parcel 179 of the East Riverside Urban Renewal Project. Ms. Scoville owns the adjacent property and plans to use the lot, which is too small to build on in conjunction with her property. The minimum price of Parcel 179 is $530.00. Ms. Scoville's bid is $530.00. The area of the lot is 5,894 square feet.

B. **Approval of bids for automobile and trucks.**

SUMMARY: Pursuant to N. C. General Statute 143-129, sealed bids were invited to furnish (1) mid-size sedan for the Water Department, Wastewater Collection Division; (1) 1/2 ton pickup truck for the Civic Center, and (2) cab and chassis with dump body for the Public Works Department, Sanitation Division. Five bids were received. These bids were reviewed by the Purchasing Director and Department Heads, and they recommend awarding the bid to Matthews Ford, Inc., Asheville, N.C. for Items A (Midsize Sedan) and B (1/2 Ton Pickup truck) for a total amount of $21,074.00 and to Ken Wilson Ford, Inc., Canton, N.C. for Item C

(Cab and Chassis with Dump Body) for a total amount of $41,684.50.

C. Resolution No. 89-70 - Resolution appointing member to the Asheville-Buncombe Historic Resources Commission.

SUMMARY: The term of Kenneth Wayne Robinson expires on July 1, 1989, as a member of the Asheville-Buncombe Historic Resources Commission. This resolution will reappoint him for a 3-year term, term expiring on July 1, 1992, or until his successor is duly appointed and qualified.

Resolution Book No. 17 Page No. 415

D. Resolution No. 89-71 - Resolution appointing members to Board of Electrical Examiners.

SUMMARY: The terms of E. Frank Davis, Harvey Burleson, Walter J. Harlow, Jonathan D. Smith and Malachie Cromartie expire on July 1, 1989, as members of the Board of Electrical Examiners. This resolution will reappoint them for a 2-year term, term expiring on July 1, 1991, or until their successors are duly appointed and qualified.

Resolution Book No. 17 Page No. 416

E. Resolution No. 89-72 - Resolution appointing members to the Motion Picture Operators Board of Examiners.

SUMMARY: The terms of Roy B. Gibbs and William P. Sudderth expire on

July 1, 1989, as members of the Motion Picture Operators Board of Examiners. This resolution will reappoint them for a 2-year term, term expiring on July 1, 1991, or until their successors are duly appointed and qualified.

Resolution Book No. 17 Page No. 417

F. Certificate of appointment to Housing Authority of the City of Asheville.

SUMMARY: The term of Logan D. Delany expired on June 11, 1989, as member of the Housing Authority of the City of Asheville. This certificate will reappoint him for a 5-year term, term expiring on June 11, 1994, or until his successor is duly appointed and qualified.

Resolution Book No. 17 Page No. 418

G. Resolution No. 89-73 - Resolution appointing member to the Asheville Civic Center Commission.

SUMMARY: The term of Mrs. H. C. McQueen expires on June 30, 1989, as members of the Asheville Civic Center Commission. This resolution will reappoint her for a 3-year term, term expiring on June 30, 1992, or until their successors are duly appointed and qualified.

Resolution Book No. 17 Page No. 419

H. Resolution No. 89-74 - Resolution appointing members to the Recreation Board for Asheville.

SUMMARY: The terms of Carolyn Tingle, Marvin A. Nockow, and Bess Baird expire on June 30, 1989, as members of the Recreation Board for Asheville. This resolution will reappoint them for a 2-year term, term expiring on July 1, 1991 or until their successors are duly appointed and qualified.

Resolution Book No. 17 Page No. 420

I. Resolution No. 89-75 - Resolution calling for a public hearing for the adoption of an ordinance directing the Director of Building Inspections to demolish the dwelling known as 26 Mount Clare Avenue for June 27, 1989.

SUMMARY: Proceedings have heretofore been instituted in accordance with the City of Asheville Housing Ordinance No. 1370, Section 8-29(B)(2), as authorized by N.C. Gen. Stat. sec. 160A-443(2) and a condemnation hearing held on March 13, 1989. At said hearing, it was determined that the dwelling at 26 Mount Clare Avenue was unfit for human habitation. The owner(s) of this dwelling was given 10 days from receipt of the Order of Finding and Fact to either renovate or demolish the dwelling, and the owner(s) have not complied with said Order in any respect and no improvements are underway or being made upon the property. This resolution will schedule a public hearing on this matter as required by N. C. Gen. Stat. sec. 160A-364.

Resolution Book No. 17 Page No. 421

J. Scheduling of public hearing relative to continuing a moratorium on the issuance of permits for off-premise advertising signs within the zoning jurisdiction of the City of Asheville for June 27, 1989.

SUMMARY: On January 10, 1989, the City Council adopted an ordinance imposing a moratorium on the issuance of permits for off-premises advertising signs within the zoning jurisdiction of the City of Asheville. This motion will schedule a public hearing to extend the present moratorium.

Upon motion of Councilman Frank, seconded by Councilman York, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

REPORT OF GROUP DEVELOPMENT ACTIONS BY THE PLANNING AND ZONING COMMISSION

Carol Albrice, from the Planning Department, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. She said in accordance with the procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. She said the following action was taken by the Planning and Zoning Commission at their meeting on June 7, 1989.

CAROLEBROOK APARTMENTS - OLD HAW CREEK ROAD AND MIDDLEBROOK ROAD

Mrs. Albrice said the Asheville Planning and Zoning Commission on June 7, 19899, reviewed and approved the site plan of Carolebrook Apartments at the intersection of Old Haw Creek Road and Middlebrook Road subject to 1) Approval of an erosion control plan by the Planning Department prior to soil disturbance,2) Execution of an agreement between the City and the Developer providing for the proposed improvements to the Old Haw Creek Road and Middlebrook Road intersection, 3) Addition of a note to the site plan that the wooded areas indicated on the site plan will remain, and
4) An agreement being recorded which provides access to the Hendricks Heights properties.
She said comments were received from Ms. Hilda Gasperson and Mr. M. C. Walsh, Jr. both concerned about existing traffic on Old Haw Creek Road and impact of 200 units, back up of traffic at signal light on Tunnel Road and adequacy of sewer.

Council accepted the recommendation of the Planning and Zoning Commission relative to the Carolebrook Apartments to be located at the intersection of Old Haw Creek Road and Middlebrook Road.

ASHEVILLE MALL - REVISION TO SITE PLAN CONCERNING ENTRANCES OFF TUNNEL ROAD

Julia Cogburn, Planning Director, said the Asheville Planning and Zoning Commission on June 7, 1989, reviewed and approved a revised site plan which leaves the center entrance off Tunnel Road. This entrance had been deleted from an earlier submission. The neighborhood indicated at earlier public hearings that it preferred this access to remain open to take traffic off side roads. She said no public comments were received during the meeting.

Rendell Davis, President of the Kenilworth Forest Association, and Harold Payne, Past-president of the association, commented to members of Council that in their opinion Council should not revise the site plan until such time as the Asheville Mall Group Development plan is settled in the courts. They also expressed concern that the approved site plan for the Asheville Mall has not been adhered to. They also commented on the temporary Certificates of Occupancy that have been issued.

After considerable discussion, Mayor Bissette said the Kenilworth Forest Association would be presented with information relative to the pending lawsuits and the Certificates of Occupancy.

Council accepted the recommendation of the Planning and Zoning Commission relative to the revised site plan of the Asheville Mall concerning entrances off Tunnel Road.

CLAIMS - SHERRY THOMAS (WATER) - MIKE BRUCKNER (STREETS) - WILLIE CROUCH (WATER) - READER WATT (SEWER) - MARJORIE JOHNSON (STREETS) - BEVERLY CONGDON (STREETS) - HERBERT GRANT (SEWER) - JACK SMITH (PARKS) - JOHN SATER (SEWER) - EARL WILSON (PARKS)

The City Manager presented claims received from Sherry Thomas, Mike Bruckner, Willie Crouch, Reader Watt, Marjorie Johnson, Beverly Congdon, Herbert Grant, Jack Smith, John Sater, and Earl Wilson.

Mayor Bissette referred the claims to the City Attorney for investigation and recommendation.

LAWSUIT - CARL WILLIAMS V. M.H. WILSON, C.F. McBRIDE AND CITY OF ASHEVILLE - ALLEGED WRONGFUL ACT - ASHEVILLE POLICE DEPARTMENT

The City Manager said the city was served with a lawsuit on June 5, 1989 involving Carl Williams v. M.H. Wilson, C.F.

McBride and the City of Asheville - alleged wrongful act - Asheville Police Department.

Mayor Bissette referred the lawsuit to the City Attorney for investigation and recommendation.

ASHEVILLE FIREFIGHTERS ASSOCIATION - COMMENTS RELATIVE TO PAY PLAN

David McFee, President of the Asheville Firefighters Association, expressed their frustration over the proposed pay plan. He said the 4 percent across the board is not sufficient and requested a 6 per cent across-the board increase. He said the firefighters recently presented Council with a salary survey which would have been more in line with other cities. He also requested that the City stay with performance evaluation increases of 4 - 6 - 7-1/2 percent. He said under the proposed pay plan a 2 year veteran with the Fire Department will be making the same as a 5 year veteran. He said they would like to have a more honest and fair pay plan.

The City Manager again explained the elements of the total compensation package including time-in-grade and longevity. He said every effort was made to treat all city employees fair and equitable. He said cities with a population over 10,000 is giving an average of 4% for a cost of living increase. He said the proposed merit increases are greater than the average being given by other cities. He said 88-90 percent of city employees receive merit increases.

Mayor Bissette said he and members of Council have always tried to be sensitive to all city employees. He said his main concern is to have a pay plan that is fair and equitable and competitive.

Councilman Bratton again expressed concern about the employees not going through the management chain. She said evidently the system of Council/Manager is not working. She said the Council/Manager system is suppose to be a buffer between the political system.

The firefighters said it is difficult to have a one to one relationship with management.

A citizen spoke in support of the firefighters saying the pay plan should be put to a vote of the people. He said he would be willing to pay extra taxes for more pay for the firefighters.

Ralph Bishop spoke in support of the firefighters getting a salary increase.

RALPH BISHOP - COMMENTS RELATIVE TO FORMER POLICE CHIEF AND LOTTERY SALES

Ralph Bishop spoke to members of Council relative to compensation paid to the former Police Chief and the lottery sales in the City of Asheville.

VII. ADJOURNMENT

Mayor Bissette adjourned the meeting at 5:35 p.m.

MAYOR

CITY CLERK

Tuesday - June 20, 1989 - 4:00 P.M.

Regular Meeting

Present: Vice-Mayor Kenneth M. Michalove, Presiding; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell Martin and A. Robert York; Corporation Counsel William F. Slawter; Assistant City Manager Charles Penny; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Mayor W. Louis Bissette and City Manager Douglas O. Bean (attending business meeting in Washington, D. C.)

INVOCATION

The invocation was given by Councilman York.

APPROVAL OF MINUTES

Vice-Mayor Michalove announced the approval of the minutes of the June 13, 1989 meeting as submitted.

I. PROCLAMATIONS:

II. PUBLIC HEARINGS:

A. Continuation of public hearing relative to City of Asheville Budget for 1989-90.

Vice-Mayor Michalove said this public hearing was continued from the June 13, 1989 meeting without further advertisement. He said since the Mayor and City Manager is out of town the public hearing should be continued for one more week.

Councilman Price moved to continue the public hearing until June 27, 1989 without further advertisement. This motion was seconded by Councilman York and carried unanimously.

III. OLD BUSINESS:

A. Ordinance No. 1768 - Third reading of an ordinance rezoning property located at Buckstone Court and I-240.

Vice-Mayor Michalove said the Asheville Planning and Zoning Commission on May 3, 1989, reviewed and recommended approval of rezoning Ward 8, Sheet 11, Lots 35-1/2 and 53 from R-3 Residential District to CH Commercial Highway District.

Vice-Mayor Michalove said the ordinance was previously read on first and second reading and would not be reread in its entirety.

On a roll call vote of 6-0, Ordinance No. 1768 passed on third and final reading.

Ordinance Book No. 11 Page No. 452

B. Ordinance No. 1769 - Third reading of an ordinance relative to annexing a noncontiguous area on U.S. 19-23 known as Pawn World Gun Supply.

Vice-Mayor Michalove said the City of Asheville has received a petition from Mr. DeWayne Roberson requesting annexation of a noncontiguous area known as Pawn World Gun Supply on Highway 19-23. The City Clerk has investigated the petition and has certified that it is sufficient.

Patty Tallerday, with the Planning Department, requested that the third reading of the ordinance be postponed until June 27, 1989 in order for a fire protection agreement to be completed prior to the third reading. She said the effective date of the annexation could be June 30, 1989.

Councilman Price moved to continue the third reading of Ordinance No. 1769 until June 27, 1989. This motion was seconded by Councilman Martin and carried unanimously.

IV. NEW BUSINESS:

V. CONSENT:

VI. OTHER BUSINESS:

Resolution No. 89-77 - Resolution authorizing the Mayor to execute on behalf of the City of Asheville a Federal Aviation grant agreement, Project No. 3-37-0005-10

Vice-Mayor Michalove read a resolution authorizing the Mayor to execute a Federal Aviation Grant Agreement, Project No. 3-37-0005-10 for improvements to expand and rehabilitate air carrier ramp; exit taxiway, taxi guidance signs and fixed distance markers - Runway 16-34. The grant is in the amount of $1,852,740. Since the City of Asheville and the County of Buncombe are cosponsors of the grant agreement, the FAA requires each sponsor to execute the grant agreement.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 89-77 was unanimously adopted.

Resolution Book No. 17 Page No. 424

USE OF SPACE FROM PACK PLAZA ASSOCIATES LIMITED PARTNERSHIP - BELE CHERE FESTIVAL

Councilman Frank moved to authorize the City Manager to execute a letter of indemnification/hold harmless to be given to Pack Plaza Associates Limited Partnership to permit the City to use 10 parking spaces in the new Pack Plaza Garage, storage space in Commerce Building and the following buildings for Bele Chere Headquarters: G's Bookstore, Finkelstein's and Western Hotel for the Bele Chere Festival for July 28-30, 1989 and for selected spaces beginning July 24 through August 3, 1989. This motion was seconded by Councilman Martin and carried unanimously.

RESOLUTION NO. 89-76 - RESOLUTION OF INTENT TO CONSIDER AN ORDINANCE AMENDING THE CHARTER OF THE CITY OF ASHEVILLE TO PROVIDE FOR NONPARTISAN ELECTIONS AND TO PROVIDE FOR DISTRICT REPRESENTATION AND CALLING FOR A PUBLIC HEARING THEREON FOR JULY 25, 1989

Vice-Mayor Michalove presented the resolution of intent to consider an ordinance amending the Charter of the City of Asheville to provide for nonpartisan elections and to provide for district representation and calling for a public hearing thereon for July 25, 1989.

Upon motion of Councilman Bratton, seconded by Councilman Martin, Resolution No. 89-76 was unanimously approved.

Resolution Book No. 17 Page No. 422-423

Councilmen Martin, Bratton and Frank were appointed to an ad hoc committee to study the various methods of governments throughout the state involving nonpartisan/partisan elections and district representation and how each of these systems are working.

COMMENTS BY DAVID A. WEIR - DEMOLITION OF EVERGREEN MOTEL AT 612 MERRIMON AVENUE AND SERENDIPITY SQUARE

David A. Weir appeared before Council relative to the demolition of the Evergreen Motel at 612 Merrimon Avenue and Serendipity Square, a shopping center next to the Evergreen Motel which were demolished in violation of Federal NESHAP laws (National Emmision Standards for Hazardous Air Pollution). He said the buildings were not inspected by the Western North Carolina Pollution Control Agency for the presence of asbestos containing materials. He presented a fact sheet on asbestos and details of asbestos in the demolition materials. He said in his opinion the owners of these properties should be imposed fines on these two projects for not following the proper notification procedures of the Federal NESHAP Laws.

Mr. Weir presented a proposal for the City to establish an Asbestos Task Force to deal with asbestos removal. He said a trained team could be formed to remove asbestos. He said grants could possibly be obtained to deal with this problem. He said perhaps these grants could provide low interest loans to remove asbestos from older homes in the City of Asheville.

Councilman Frank said in her opinion the Environmental Affairs Committee with the County of Buncombe should handle this issue and she would check into this possibility and let Mr. Weir know what actions the committee are or will be taking relative to asbestos removal.

CLAIMS - VICKIE JOHNSTON (FIRE) - WILMA MOORE (STREETS) - FORREST SHIFFLETT (POLICE) - LAURA NOAH (SEWER) - REAGAN RIDDLE (WATER) - LINDA HOOVER (WATER) - GRACE DORN (STREETS) - CHARLES R. MOSLEY (PARKS AND RECREATION)

The Assistant City Manager presented claims received from Vickie Johnston, Wilma Moore, Forrest Shifflett, Laura Noah, Reagan Riddle, Linda Hoover, Grace Dorn, and Charles R. Mosley.

Vice-Mayor Michalove referred the claims to the City Attorney for investigation and recommendation.

LAWSUIT - SWEETEN CREEK LIMITED PARTNERSHIP v. CITY OF ASHEVILLE (CHALLENGE TO ANNEXATION OF WOODS EDGE AREA) - ASHEVILLE INDUSTRIES, INC. V. CITY OF ASHEVILLE (CHALLENGE TO ANNEXATION OF SKYLAND II AREA)

The Assistant City Manager said the city was served with lawsuits on June 14, 1989 from Sweeten Creek Limited Partnership v. City of Asheville relative to a challenge to annexation of Woods Edge area and from Asheville Industries, Inc. v. City of Asheville relative to a challenge to annexation of Skyland II area.

Vice-Mayor Michalove referred the lawsuit to the City Attorney for investigation and recommendation.

VII. ADJOURNMENT

Vice-Mayor Michalove adjourned the meeting at 5:00 p.m.

MAYOR

CITY CLERK

Tuesday - June 27, 1989 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, and A. Robert York; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Deputy City Clerk Carol Hensley.

Absent: Councilman Russell Martin and Associate City Manager/City Clerk William F. Wolcott, Jr.

INVOCATION

The invocation was given by Councilman Price.

APPROVAL OF MINUTES

Mayor Bissette announced the approval of the minutes of the June 20, 1989 meeting as submitted.

I. PROCLAMATIONS:

A. Proclamation - "Recreation and Parks Month" - July, 1989

Mayor Bissette proclaimed July, 1989 as "Recreation and Parks Month".

II. PUBLIC HEARINGS:

A. Public hearing relative to FY '90 Transit Operating, Planning and Capital Grant Application.

Resolution No. 89-78 - Resolution authorizing the filing of an application with the Department of Transportation, United States of America, for a grant under the Urban Mass Transportation Act of 1964, as amended

Resolution No. 89-79 - Resolution authorizing the filing of an application with the North Carolina Department of Transportation for state funds in support of the planning and capital projects

Mayor Bissette opened the public hearing at 4:25 p.m.

((1))

The Deputy City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Carl Ownbey, from the Planning Department said this is the annual grant application to UMTA and NCDOT for the Asheville Transit Authority. This year there will be requests for operating, planning and capital funds under Section 9 of the UMTA Act.

Upon inquiry of Vice-Mayor Michalove, Mr. Ownbey said the grant funds does not including funding for the shuttle system. He said it is his understanding that UMTA will pay a portion of the shuttle system cost.

Mayor Bissette closed the public hearing at 4:29 p.m.

Upon motion of Councilman Bratton, seconded by Councilman Frank, Resolution No. 89-78 and 89-79 was unanimously adopted.

Resolution No. 89-78 -

Resolution Book No. 17 Page No. 425 - 426

Resolution No. 89-79 -

Resolution Book No. 17 Page No. 427

B. Public hearing relative to the adoption of an ordinance directing the Director of Building Inspections to demolish the dwelling known as 26 Mount Clare Avenue.

Ordinance No. 1770 - Ordinance directing the Director of Building Inspections to demolish and remove the dwelling known as 26 Mount Clare Avenue, Asheville, North Carolina

Mayor Bissette opened the public hearing at 4:29 p.m.

The Deputy City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

((1))

The City Attorney said proceedings have heretofore been instituted in accordance with the City of Asheville Housing Ordinance No. 1370, Section 8-29(B)(2), as authorized by N.C. Gen. Stat. sec. 160A-443(2) and a condemnation hearing held on March 13, 1989. At said hearing, it was determined that the dwelling at 26 Mount Clare Avenue was unfit for human habitation. The owner(s) of this dwelling was given 10 days from receipt of the Order of Finding and Fact to either renovate or demolish the dwelling, and the owner(s) have not complied with said Order in any respect and no improvements are underway or being made upon the property.

The City Attorney highlighted the Order of Finding and Fact and presented photographs of the dwelling. He said no response has been received from the property owners.

A discussion was held relative to the length of time it takes to have a house demolished when it is unfit for human habitation.

Mayor Bissette closed the public hearing at 4:40 p.m.

Councilman Frank moved for the adoption of Ordinance No. 1770. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1770 passed on first reading.

Vice-Mayor Michalove moved to suspend the rules and proceed to the second reading of Ordinance No. 1770. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1770 passed on second reading.

((1))

C. Public hearing relative to continuing a moratorium on the issuance of permits for off-premise advertising signs within the zoning jurisdiction of the City of Asheville.

Ordinance No. 1771 - An Ordinance renewing a moratorium on the issuance of permits for off-premise advertising signs

Mayor Bissette opened the public hearing at 4:41 p.m.

The Deputy City Clerk presented the notice to the public setting the time and date for the public hearing

Mayor Bissette said on January 10, 1989, the City Council adopted an ordinance imposing a moratorium on the issuance of permits for off-premises advertising signs within the zoning jurisdiction of the City of Asheville. Council is considering extending the present moratorium.

Julia Cogburn, Director of Planning, said the Planning and Zoning Commission has recommended that the moratorium be extended until October 1, 1989.

Mayor Bissette closed the public hearing at 4:43 p.m.

Councilman Frank moved for the adoption of Ordinance No. 1771. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1771 passed on first reading.

Vice-Mayor Michalove moved to suspend the rules and proceed to the second reading of Ordinance No. 1771. This motion was seconded by Councilman Frank and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1771 passed on second reading.

Vice-Mayor Michalove moved to suspend the rules and proceed to the third reading of Ordinance No. 1771. This motion was seconded by Councilman Frank and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1771 passed on third and final reading.

Ordinance Book No. 11 Page No. 458-459

D. Continuation of a public hearing relative to City of Asheville Budget for 1989-90.

Ordinance No. 1772 - An Ordinance adopting the budget and fixing the tax rate of the City of Asheville for the fiscal year 1989/90.

Mayor Bissette said this public hearing was continued from the June 20, 1989 meeting and will allow for public comments on the City of Asheville Budget for 1989-90. The budget ordinance will also be adopted on first and final reading. Funding is provided to operate city services for the period of July 1, 1989 to June 30, 1989.

The City Manager said the budget ordinance which would be adopted would provide for a 94% tax collection rate. He said the budget also reflects revenue from the County of Buncombe for law enforcement reimbursement.

Jim Barrett, Vice-President of Home Share, a program of ABCCM, requested that the City provide funding in the amount of $3,000 for a three month period for the operation of Home Share.

Mayor Bissette suggested that Mr. Barrett talk with the City Manager after the meeting regarding the request and to talk with the Land-of-Sky Regional Council since they also provide the same type of service.

Mayor Bissette closed the public hearing at 5:00 p.m.

Councilman Bratton moved for the adoption of Ordinance No. 1772. This motion was seconded by Councilman Frank.

On a roll call vote of 6-0, Ordinance No. 1772 passed on first and final reading.

Ordinance Book No. 11 Page No. 460-463

III. OLD BUSINESS:

((1))

B. Ordinance No. 1769 - Third reading of an ordinance relative to annexing a noncontiguous area on U.S. 19-23 known as Pawn World Gun Supply.

Mayor Bissette said the City of Asheville has received a petition from Mr. DeWayne Roberson requesting annexation of a noncontiguous area known as Pawn World Gun Supply on Highway 19-23. The City Clerk has investigated the petition and has certified that it is sufficient.

Patty Tallerday, from the Planning Department, said an agreement has been negotiated for the Enka Candler Rescue Squad to provide fire protection and the owner of the property has signed a release waiving garbage service until the entire area which was recently annexed is settled in court.

On a roll call vote of 6-0, Ordinance No. 1769 passed on third and final reading.

Ordinance Book No. 11 Page No. 453 - 455

IV. NEW BUSINESS:

A. Ordinance No. 1773 - Ordinance for a year-end budget amendment.

Mayor Bissette said this budget ordinance amendment will allow for year-end adjustments to reflect various changes that have occurred in the 1988-89 Budget.

Vice-Mayor Michalove moved for the adoption of Ordinance No. 1773. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1773 passed on first and final reading.

Ordinance Book No. 11 Page No. 464

B. Resolution No. 89-80 - Resolution authorizing the City Manager to execute a contract with Systems Consultants, Inc. to provide computer software products and services.

Mayor Bissette said this contract is to provide the City with computer applications which meet the City's needs for administrative and financial software.

The City Manager said the contract has increased about $100,000 from when it was presented to Council because of the needs for CJIS operations.

Upon motion of Councilman Price, seconded by Councilman York, Resolution No. 89-80 was unanimously adopted.

Resolution Book No. 17 Page No. 428

B. Resolution No. 89-91 - Resolution authorizing the City Manager to execute a contract with UNYSIS to provide computer equipment and computer software products and services.

Mayor Bissette said this contract is to provide the City with new UNYSIS main computers to replace the two current UNYSIS main computers which do not have enough capacity for our processing needs. This contract is to also provide new application software to serve the public safety needs of the City, the County, and the Courts.

Vice-Mayor Michalove requested that he be excused from voting on the Unisys contract due to a conflict of interest. Councilman Price moved to excuse Vice-Mayor Michalove from vote and participation on the Unisys contract. This motion was seconded by Councilman York and carried unanimously.

Upon motion of Councilman Frank, seconded by Councilman Bratton, Resolution No. 89-91 was unanimously adopted.

Resolution Book No. 17 Page No. 429

C. Resolution No. 89-92 - Resolution authorizing the City Manager to execute a contract with UNISYS to provide an Uninterruptable Power System.

Mayor Bissette said this contract is to acquire an Uninterruptable Power System to provide a stable electrical supply to the new UNISYS main computers.

Vice-Mayor Michalove requested that he be excused from voting on the Unisys contract due to a conflict of interest. Councilman Price moved to excuse Vice-Mayor Michalove from vote and participation on the Unisys contract. This motion was seconded by Councilman York and carried unanimously.

Upon motion of Councilman Frank, seconded by Councilman Bratton, Resolution No. 89-92 was unanimously adopted.

Resolution Book No. 17 Page No. 430

V. CONSENT:

A. Resolution No. 89-93 - Resolution authorizing the City Manager to execute a contract with the American Red Cross for transportation services for the handicapped.

SUMMARY: The Asheville Area- American Red Cross has provided public transportation services to qualified handicapped individuals under Section 9 of the Urban Mass Transportation Act for the fiscal year 1988-89. The contract will expire on July 1, 1989. They are willing to extend the current contract for an additional two months .

Resolution Book No. 17 Page No. 431-432

B. Scheduling of public hearing relative to rezoning property on Hendersonville Road, request of Buncombe County Board of Education for July 11, 1989.

SUMMARY: The Asheville Planning and Zoning Commission on June 7, 1989, reviewed and recommended approval of rezoning Lot 52, Sheet 4, Ward 7, from R-3 Residential District and CS Commercial Service District to CH Commercial Highway District excepting that portion of Lot 52 lying 150 feet from the centerline of Vanderbilt Road and that portion be rezoned from R-3 Residential District to R-1 Residential District.

Upon motion of Councilman Frank, seconded by Councilman Michalove, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

A) Resolution No. 89-85 - Resolution authorizing the City Manager to sign documents necessary to effect the changeover in administrators for the City of Asheville's Employee Medical Benefit Trust.

The City Manager said this will authorize execution of all documents relative to the closing of the medical benefits trust account currently maintained at First Union National Bank, and establishing such a similar trust account at a bank convenient to both the City of Asheville and General Administrators for purposes of assuring a troublefree transition from one plan administrator to the other.

Upon motion of Councilman Price, seconded by Councilman Bratton, Resolution No. 89-85 was unanimously adopted.

Resolution Book No. 17 Page No. 434

B) Resolution No. 89-84 - Resolution authorizing the Mayor of the City of Asheville to execute a cooperative interlocal agreement to establish and implement the Metropolitan Enforcement Group Agency.

The City Manager said this will authorize the Mayor to execute a Cooperative Interlocal Agreement with the North Carolina State Bureau of Investigation, and the County of Buncombe to enforce the drug laws of the State of North Carolina within Buncombe County.

Upon motion of Councilman Price, seconded by Councilman York, Resolution No. 89-84 was unanimously adopted.

Resolution Book No. 17 Page No. 433

C) Resolution No. 89-86 - Resolution authorizing the Mayor to execute assurances outlined in the Title VI Civil Rights Regulations administered by Urban Mass Transportation Administration.

The City Manager said this will authorize the Mayor to execute assurances in compliance with the Title VI Civil Rights Regulations and to file any updated material requested by the Urban Mass Transportation Administration concerning Civil Rights Compliance.

Upon motion of Councilman Bratton, seconded by Councilman Price, Resolution No. 89-86 was unanimously adopted.

Resolution Book No. 17 Page No. 435

PETITION - WASTEWATER COLLECTION DIVISION - WATER AND SEWER DEPARTMENT REGARDING PAY PLAN

The City Manager recognized employees from the Wastewater Collection Division and read a petition presented to the City Manager and Council stating their appreciation for the pay plan and pay increases.

COUNCIL MEETING - JULY 4, 1989 - CANCELLED

Mayor Bissette announced that there would be no Council meeting on July 4, 1989 due to the holidays.

CLAIMS - STEVE SLUDER (WATER) - DICK PLEMMONS (SEWER) - WENDY'S SEWER)

The City Manager presented claims received from Steve Sluder, Dick Plemmons, and Wendy's.

Mayor Bissette referred the claims to the City Attorney for investigation and recommendation.

RALPH BISHOP - ASHEVILLE POLICE DEPARTMENT

Ralph Bishop again spoke to members of Council relative to retirement funds paid to former Police Chief Fred Hensley.

VII. ADJOURNMENT

Mayor Bissette adjourned the meeting at 5:25 p.m.

MAYOR

CITY CLERK

Tuesday - July 11, 1989 - 4:00 P.M.

Regular Meeting

Present: Vice-Mayor Kenneth M. Michalove, Presiding; Councilmen Mary Lloyd Frank, Norma T. Price, Russell Martin and A. Robert York; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Mayor W. Louis Bissette and Councilman Wilhelmina Bratton

INVOCATION

The invocation was given by Councilman Martin.

APPROVAL OF MINUTES

Vice-Mayor Michalove moved for the approval of the minutes of the June 27, 1989 meeting as submitted.

I. PROCLAMATIONS:

II. PUBLIC HEARINGS:

III. OLD BUSINESS:

A. Ordinance No. 1770 - Third reading of an ordinance directing the Director of Building Inspections to demolish and remove the dwelling known as 26 Mount Clare Avenue, Asheville, North Carolina.

Vice-Mayor Michalove said proceedings have heretofore been instituted in accordance with the City of Asheville Housing Ordinance No. 1370, Section 8-29(B)(2), as authorized by N.C. Gen. Stat. sec. 160A-443(2) and a condemnation hearing held on March 13, 1989. At said hearing, it was determined that the dwelling at 26 Mount Clare Avenue was unfit for human habitation. The owner(s) of this dwelling was given 10 days from receipt of the Order of Finding and Fact to either renovate or

demolish the dwelling, and the owner(s) have not complied with said Order in any respect and no improvements are underway or being made upon the property. This resolution will schedule a public hearing on this matter as required by N. C. Gen. Stat. sec. 160A-364. This ordinance was read on first and second readings on June 27, 1989.

Vice-Mayor Michalove stated this ordinance was previously read on first and second reading and will not be reread in its entirety.

On a roll call vote of 5-0, Ordinance No. 1770 passed on third and final reading.

Ordinance Book No. 11 Page No. 456 - 457

IV. NEW BUSINESS:

A. 2010 Quarterly Report and 2010 Update Project.

Mike Moser, Chairman of the Asheville Planning and Zoning Commission, highlighted the quarterly report ending March 31, 1989 on the 2010 Plan. He outlined various departmental activities accomplished during this quarter. He said the 2010 plan continues to be a working document.

He said when the 2010 plan was implemented it was decided that the plan would be updated every two (2) years. He said the plan is scheduled for updating this year and necessary amendments would be made to the plan. He said a committee would be formed consisting of two (2) members from the Planning and Zoning Commission; two (2) members from the City Council; and several members at large in the community with the Chairman of Planning and Zoning serving as Chairman of the committee. He said several public hearings would be held to receive citizen input and the committee would present recommended changes to the plan to members of Council. He said the public hearings are scheduled for September 14, 21, and 28 at 7:00 p.m. in the Asheville Civic Center Banquet Room.

He said an Awards Program is also scheduled for September 12, 1989 in conjunction with the City Council meeting to recognize outstanding accomplishments to the plan.

Members of Council thanked Mike Moser for his continued efforts with the 2010 plan.

B. **Resolution No. 89-87 - Resolution authorizing the City Manager to execute a right-of-way agreement between Tour-O-Tell of Asheville, Inc., Mr. Wade Hall, President and the City of Asheville.**

The City Manager said in order to improve Edgewood Road and add a center left-turn lane to accommodate additional traffic from drive entrance being placed from Merrimon Square Development and Western Auto Store Development, additional right-of-way will be required on the Merrimon Square Development owned by Tour-O-Tell of Asheville, Inc., Mr. Wade Hall, President. The additional right-of-way will allow the turn lane to be placed and better line up the intersection, as well as improve the turning radius of the intersection.

Vice-Mayor Michalove said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman York, seconded by Councilman Martin, Resolution No. 89-87 was unanimously adopted.

Resolution Book No. 17 Page No. 436

C. **Resolution No. 89-88 - Resolution authorizing the City Manager to execute a contract for construction of a concession stand, rest rooms, and ball field lighting at the park on Martin Luther King Boulevard.**

The City Manager said an agreement has been negotiated with H & M Constructors for contracted construction of a combination concession/toilet facility and with M.B. Haynes Electric Company for lighting of this building and the ballfield area for a park to be constructed on Martin Luther King Drive. He said after negotiations were completed the bids were basically within the budget for the park.

Vice-Mayor Michalove said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman York, seconded by Councilman Martin, Resolution No. 89-88 was unanimously adopted.

Resolution Book No. 17 Page No. 437

D. **Resolution No. 89-89 - Resolution authorizing the City Manager to execute an agreement with Wood and Cort for architectural services for City Hall Renovations.**

The City Manager said the City has been working under an old contract with Wood and Cort for City Hall Renovations and now feels that a comprehensive updated contract is needed. He said a standard AIA contract would be executed with the exception that the percentage fee in the contract would be changed to a lump sum amount with a not to exceed figure.

Vice-Mayor Michalove said members of Council were furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 89-89 was unanimously adopted.

Resolution Book No. 17 Page No. 438

V. CONSENT:

A. **Resolution No. 89-90 - Resolution clarifying the authority of the City Manager to execute contracts on behalf of the City of Asheville.**

Vice-Mayor Michalove said this resolution will clarify the authority of the City Manager to execute contracts for services, construction or repair work or for purchase of apparatus, supplies, materials and supplies up to the statutory limit required for formal bidding for construction or repair work under Chapter 143 of the North Carolina General Statutes.

Resolution Book No. 17 Page No. 439

B. Resolution No. 89-91 - Resolution requesting the North Carolina Department of Transportation to remove certain streets in the Hansel Avenue Annexation Area from the State Street System and place them upon the City Street System effective June 29, 1989.

Vice-Mayor Michalove said this resolution will place the State maintained streets in the Hansel Avenue Annexation Area on the City of Asheville Street System.

Resolution Book No. 17 Page No. 440

C. Resolution No. 89-92 - Resolution appointing member to the City of Asheville Police Officers and Firefighters Disability Review Board.

Vice-Mayor Michalove said this resolution will appoint Captain J. M. Coffey as a member of the Asheville Police Officers and Firefighters Disability Review Board to serve the unexpired term of Captain John Best, term expiring July 19, 1990, or until his successor is duly appointed and qualified.

Resolution Book No. 17 Page No. 441

D. Scheduling of public hearing relative to zoning recently annexed property on U. S. 19-23 known as Pawn World Gun Supply for July 25, 1989.

Vice-Mayor Michalove said the Planning and Zoning Commission has recommended that this property be zoned to Commercial Highway District.

E. Rescheduling of public hearing relative to rezoning property at 391-393 Hendersonville Road for Buncombe County Board of Education for July 18, 1989.

Vice-Mayor Michalove said the Asheville Planning and Zoning Commission on June 7, 1989, reviewed and recommended approval of rezoning Lot 52, Sheet 4, Ward 7, from R-3 Residential District and CS Commercial Service District to CH Commercial Highway District excepting that portion of Lot 52 lying 150 feet from the centerline of Vanderbilt Road and that portion be rezoned from R-3 Residential District to R-1 Residential District. This public hearing was originally scheduled for July 11, 1989. However, due to problems in advertising the hearing will be rescheduled for July 18, 1989.

Upon motion of Councilman Frank, seconded by Councilman Price, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

Resolution No. 89-93 - Resolution appointing members to the Asheville Area Civic Center Commission.

Vice-Mayor Michalove read a resolution appointing Sharon Hulme, Jan Davis, and Diana Bilbrey to the Asheville Area Civic Center Commission.

Upon motion of Councilman Frank, seconded by Councilman York, Resolution no. 89-93 was unanimously adopted.

Resolution Book No. 17 Page No. 442

CLAIMS - ALVIN LEROY DAVIS (WATER) - FREDERICK McDERMOTT (WATER) - EDRA SIMS (WATER)

The City Manager presented claims received from Alvin Leroy Davis, Frederick McDermott, and Edra Sims.

Vice-Mayor Michalove referred the claims to the City Attorney for investigation and recommendation.

LAWSUITS - MARY SULLIVAN V. CITY OF ASHEVILLE (FELL IN WATER METER)

The City Manager said the city was served with a lawsuit on July 5, 1989 involving Mary Sullivan v. City of Asheville regarding the plaintiff falling in a water meter when lid was flipped.

Vice-Mayor Michalove referred the lawsuit to the City Attorney for investigation and recommendation.

REPORT OF GROUP DEVELOPMENT ACTIONS BY THE PLANNING AND ZONING COMMISSION

Julia Cogburn, Director of Planning, introduced a new Senior Planner, Gerald Green who would be responsible for supervising the planning staff.

.72

Carol Albrice, from the Planning Department, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. She said in accordance with the procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. She said the following action was taken by the Planning and Zoning Commission at their meeting on July 5, 1989.

Asheville-Buncombe Technical Community College - Addition and Renovation of Education Building

Carol Albrice said the Asheville Planning and Zoning Commission on July 5, 1989, reviewed and approved the site plan of the Asheville-Buncombe Technical Community College - Addition and renovation of Education Building.

Council accepted the recommendation of the Planning and Zoning Commission relative to the Asheville-Buncombe Technical Community College - Addition and Renovation of Education Building.

Asheville-Buncombe Technical Community College - Addition and renovation of Birch Building

Carol Albrice, from the Planning Department, said the Asheville Planning and Zoning Commission on July 5, 1989, reviewed and approved the site plan for the Asheville-Buncombe Technical Community College - Addition and renovation of the Birch Building.

Council accepted the recommendation of the Planning and Zoning Commission relative to the Asheville-Buncombe Technical Community College - Addition and Renovation of Birch Building.

(3) Blue Ridge Industries - Expansion

Carol Albrice, from the Planning Department, said the Asheville Planning and Zoning Commission on July 5, 1989, reviewed and approved the site plan of Blue Ridge Industries - Expansion subject to 1) City Council granting a variance on the requirement for paving the parking lot; 2) Letter from Fire Department stating approval of fire protection for the project; and 3) Approval of erosion control plan by Planning Department prior to soil disturbance.

After a brief discussion, Councilman Frank moved to schedule a public hearing on the site plan for Blue Ridge Industries - Expansion for July 25, 1989. This motion was seconded by Councilman Price and carried unanimously.

(4) 4-Unit Apartment North and Forsyth Streets - William R. Lewis, Owner

Carol Albrice, from the Planning Department, said the Asheville Planning and Zoning Commission on July 5, 1989, reviewed and approved the site plan for a 4-Unit Apartment North and Forsyth Streets - William R. Lewis, Owner, subject to 1) Approval of an erosion control plan by the Planning Department prior to soil disturbance; 2) Planning Director approval of a revised site plan depicting: a) a proposed buffer meeting the specifications of the buffer ordinance, and b) a functional parking arrangement that meets the standards of the ordinance.

After a brief discussion, Councilman Price moved to schedule a public hearing on the site plan for the 4-unit apartment North and Forsyth Streets - William R. Lewis, Owner for August 1, 1989. This motion was seconded by Councilman Frank and carried unanimously.

(5) Sweeten Creek Road Mini Storage - Moore Associates, Architects, for George Morosani, Developer

Carol Albrice, from the Planning Department, said the Asheville Planning and Zoning Commission on July 5, 1989, reviewed and approved the site plan for the Sweeten Creek Road Mini Storage - Moore Associates, Architects, for George Morosani, Developer subject to 1) Board of Adjustment approval of the site plan subject to floodplain; 2) Approval by the Legal Department and the Water and Sewer Department of a sewer line easement for the public sewer line through the site; and 3) That a "No-Rise" floodplain certificate with supporting calculations be provided to staff prior to submission to City Council.

Council accepted the recommendation of the Planning and Zoning Commission relative to the Sweeten Creek Road Mini Storage - Moore Associates, Architects, for George Morosani, Developer.

(6) Grove Park Inn - Staff Housing - Rogers/Dameron Associates, Architects, for Grove Park Inn

Carol Albrice, from the Planning Department, said the Asheville Planning and Zoning Commission on July 5, 1989, reviewed and approved the site plan for Grove Park Inn - Staff Housing subject to 1) Approval of an erosion control plan by the Planning Department prior to soil disturbance; 2) Approval by Planning Director of on-site lighting; and 3) Approval by Planning Director of on-site noise generating mechanical units.

After a brief discussion, Councilman Price moved to schedule a public hearing on the site plan for the Grove Park Inn - Staff Housing for August 1, 1989. This motion was seconded by Councilman Martin and carried unanimously.

Council requested that the Mayor write a letter to Grove Park Inn advising them of the public hearing date and to outline the concerns expressed by area citizens at the public hearing before the Planning and Zoning Commission, the three major concerns being noise, lighting, and erosion control.

STATUS REPORT REQUESTED ON LANDSCAPING AT WOODBERRY APARTMENTS

Councilman Price requested a status report on the landscaping at Woodberry Apartments.

VII. ADJOURNMENT.

Vice-Mayor Michalove adjourned the meeting at 5:00 p.m.

MAYOR

CITY CLERK

Tuesday - July 18, 1989 - 4:00 P.M.

Regular Meeting

Present: Vice-Mayor Kenneth M. Michalove, Presiding; Councilmen Mary Lloyd Frank, Wilhelmina Bratton, Russell Martin and A. Robert York; Staff Attorney Martha McGlohon; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Mayor W. Louis Bissette and Councilman Norma T. Price and Corporation Counsel William F. Slawter;

INVOCATION

The invocation was given by Councilman Martin.

APPROVAL OF MINUTES

Vice-Mayor Michalove announced the approval of the minutes of the July 11, 1989 meeting as submitted.

I. PROCLAMATIONS:

A. **Proclamation - Saturday, July 22, 1989 - "Railway History Day"**

Vice-Mayor Michalove read the proclamation and presented a copy to Steve Bleyhut with the Railway Historical Society. Mr. Bleyhut received the proclamation on behalf of Mrs. Judy Calvert, Convention Chairman of the National Railway Historical Society.

B. **Presentation of Certificate of Achievement for Excellence in Financial Reporting.**

Vice-Mayor Michalove recognized Larry Fisher, Director of Finance; Charlotte Tell, City Accountant;, and Pat Lackey, Assistant City Accountant for receiving a Certificate of Achievement for Excellence in Financial Reporting, the highest form of recognition in governmental accounting and financial reporting. The award is given by the Government Finance Officers Association.

Larry Fisher, Director of Finance, was also awarded an Award of Financial Reporting Achievement. He said this is the ninth year that the City of Asheville has qualified for this award.

II. PUBLIC HEARINGS:

A. Public hearing relative to rezoning property at 391-393 Hendersonville Road for Buncombe County Board of Education.

Ordinance No. 1774 - An ordinance amending the zoning of property located on Hendersonville Road and identified as Ward 7, Sheet 4, Lot 52 of the Buncombe County Tax Maps.

Vice-Mayor Michalove said the Asheville Planning and Zoning Commission on June 7, 1989, reviewed and recommended approval of rezoning Lot 52, Sheet 4, Ward 7, from R-3 Residential District and CS Commercial Service District to CH Commercial Highway District excepting that portion of Lot 52 lying 150 feet from the centerline of Vanderbilt Road and that portion be rezoned from R-3 Residential District to R-1 Residential District.

Vice-Mayor Michalove opened the public hearing at 4:14 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Carol Alberice, from the Planning Department, said the property requested to be rezoned is located on Hendersonville Road and is owned by the Buncombe County Board of Education and consists of 12.9 acres. She said it is the site of the Old Biltmore School.

Mrs. Alberice reviewed the surrounding zoning and uses of property stating that the area is surrounded by Commercial Highway, Commercial Service, and residential.

Mrs. Alberice said residents of Biltmore Forest opposed the rezoning. She said the Planning Department has received 17 letters in opposition and one letter in favor of the rezoning.

She said the Planning Staff had recommended that the rezoning be denied. She said they felt the conditional uses allowed in the R-3 Residential District would allow extra office spaces. She said the comprehensive plan proposed the property to be Institutional as a land use projection. She said they also felt the character of the R-1 Residential District would be adversely affected if the property were rezoned.

She said the Planning and Zoning Commission recommended approval of the rezoning with the exception of a portion of Lot 52 which shall be zoned R-1 Residential District to protect the residents of Biltmore Forest. She said a 20' buffer would also be required between the commercial property and the residential property.

Walter Currie, Attorney representing the Buncombe County Board of Education, said the negative comments relative to the rezoning were received from another municipality and he questioned the legal ability of another municipality to object to zoning. He said the Planning and Zoning Commission's recommendation would protect the residents on Vanderbilt Road and any development of the property would have to come under a group development and receive approval from the Planning and Zoning Commission and the Asheville City Council. He said the School Board could live with the recommendation of the Planning and Zoning Commission. He said this property needs to get back on the tax books and the Board of Education offices would be moving to the Square D plant site. He requested that if Council agrees to rezone the property that the ordinance be read on three readings today.

Mr. Currie said he felt the rezoning to Commercial Highway was the highest and best use of the property. He said the comprehensive plan eluded to probably felt the school system would always use this property.

82B.

Robert Musselwhie, Zoning Administrator for the Town of Biltmore Forest, thanked members of the Planning and Zoning Commission and the Asheville City Council for listening to the residents of Biltmore Forest. He said Biltmore Forest is a part of the Asheville community. He said the residents of Biltmore Forest feel that the compromise offered by the Planning and Zoning Commission would be reasonable.

Mike Moser, Chairman of the Planning and Zoning Commission, said the Commission felt the compromise offered more flexibility for the property and also protected the residents of Biltmore Forest. He said the property in question is more commercial than residential. He said the Commission's recommendation carried on a vote of 6-1.

Vice-Mayor Michalove closed the public hearing at 4:24 p.m.

Vice-Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Martin moved for the adoption of Ordinance No. 1774, rezoning the property as recommended by the Planning and Zoning Commission. This motion was seconded by Councilman Bratton.

On a roll call vote of 5-0, Ordinance No. 1774 passed on first reading.

III. OLD BUSINESS:

IV. NEW BUSINESS:

V. CONSENT:

A. Scheduling public hearing relative to rezoning property located at 614 Hendersonville Road, Robert Reeves, petitioner, for August 1, 1989.

SUMMARY: The Asheville Planning and Zoning Commission on July 5, 1989, reviewed and recommended approval of rezoning Ward 7, Sheet 5, Lot 17, from R-3 Residential District to CH Commercial Highway District.

Upon motion of Councilman Frank, seconded by Councilman Martin, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

A. Resolution No. 89-94 - Resolution appointing members to the Board of Adjustment under Ordinance No. 322, as amended.

Vice-Mayor Michalove read the resolution which appointed Jeff Dave and Ellen Goldstein-Lyda as alternate members of the Board of Adjustment.

Upon motion of Councilman York, seconded by Councilman Martin, Resolution No. 89-94 was unanimously adopted.

Resolution Book No. 17 Page No. 443

B. Resolution No. 89-95 - Resolution appointing members to the Asheville-Buncombe Historic Resources Commission

Vice-Mayor Michalove read a resolution appointing Lacy Haith and Cathy Butler as members of the Asheville-Buncombe Historic Resources Commission.

Upon motion of Councilman Frank, seconded by Councilman Martin, Resolution No. 89-95 was unanimously adopted.

Resolution Book No. 17 Page No. 444

C. Resolution No. 89-96 - Resolution appointing members to the Asheville Tree/Greenway Commission

Vice-Mayor Michalove read a resolution reappointing Dr. J. Lowell Orbison and Claude B. Haynes as members of the Asheville Tree/Greenway Commission and appointing Sandra Byrd and Alison Arnold as members of the Asheville Tree/Greenway Commission and Susan Roderick and Karen Cragnolin as voting ex-officio members.

Upon motion of Councilman Frank, seconded by Councilman York, Resolution No. 89-96 was unanimously adopted.

Resolution Book No. 17 Page No. 445- 446

"PEOPLE FOR JUSTICE" TASK FORCE - POLICE BRUTALITY - IMMORAL INDIFFERENCES

Attorney Larry Linney, speaking for the members of "People for Justice", said the members are issuing a challenge to the City Council members to end "immoral indifference" and "dehumanization of our society". He said the task force was formed to study police brutality and was organized after the death of Michael Andre Harris, who died last month while in police custody. Mr. Harris died about one and one-half hours afcer being arrested during a road block targeting drug suspects at the Mountainside Apartments public housing complex. He said the members allege that Harris was brutally beaten during the incident.

Mr. Linney asked the City Council members to join the group in City-County Plaza for a ceremony laying, large, black funeral wreaths at the stone of Samuel Ashe, stating that the wreaths are a symbol for the grief felt by the black community at the destruction of our community and our youth by violence, whether perpetrated by the police or ourselves.

Mr. Linney said the members recognize that the criminal investigation is not yet complete but they were calling attention to conditions in Asheville that allowed his death and the death of others in similar circumstances. He asked that Council pass a resolution pledging the resources and political leadership of the city to reach out and work together with all citizens to eradicate not merely unwarranted violence, drug addiction and poverty, for these conditions are symptoms. He said the group is requiring that the city improve the culture that gives rise to these social ills.

Mr. Benton, a member of the task force, also asked members of Council to join the group in front of the City-County Plaza for the placing of the wreaths.

Vice-Mayor Michalove and members of Council said they are committed to ending all forms of injustice and asked that any specific incidences of brutality or other abuse be reported immediately to the City Manager's Office and complaint forms are available for that use.

IU-15b

THIS IS TO CERTIFY THAT PAGE(S) 85-86
OF THIS VOLUME WERE MISSING AT THE TIME OF
MICROFILMING.

NORTH CAROLINA DIVISION OF ARCHIVES AND HISTORY
RECORDS SERVICES BRANCH - IMAGING SUB-UNIT

Ralph Bishop commented on the corruptness of the Asheville Police Department.

Joe Webster, with the Asheville Chapter of the NAACP said police brutality has steadily increased in Asheville and in North Carolina. He asked that Council members take a stand on what has happened.

Liddy James, Chairperson for "People for Justice" invited members of Council to the next Task Force meeting on Monday, July 24, 1989 at 7:00 p.m. at Brown's Temple Church on Phifer Street.

CLAIMS - MARY AUSTIN (STREETS) - MARION BYERS (SEWER) - JD JACKSON ASSOCIATES (WATER) - FRAZIER JONES (SEWER) - CYNTHIA WHITESIDE (SEWER) - BURGER KING RESTAURANT (SEWER) - DORIS CRISP (POLICE)

The City Manager presented claims received from Mary Austin, Marion Byers, JD Jackson Associates, Frazier Jones, Cynthia Whiteside, Burger King Restaurant, and Doris Crisp.

Vice-Mayor Michalove referred the claims to the City Attorney for investigation and recommendation.

LAWSUIT - READER WATT V. CITY OF ASHEVILLE (REIMBURSEMENT FOR SEWER LINE EXPENSES) - MICHAEL BERRY V. CITY OF ASHEVILLE (APPEAL OF CIVIL SERVICE BOARD DECISION)

The City Manager said the City was served with la u
11, 1989 involving Reader Watt v. City of Ashevi
(reimbursement for sewer line expenses) and Mich C
of Asheville (appeal of Civil Service Board decis

Vice-Mayor Michalove referred the lawsuits to the City Attorney for investigation and recommendation.

EXECUTIVE SESSION - PERSONNEL ISSUE

Councilman Bratton moved that Council go into executive session to discuss a personnel matter. This motion was seconded by Councilman York and carried unanimously.

FEDERAL BUILDING - REPORT

The City Manager said the House Appropriations Subcommittee has approved expenditures for site work and design for the federal building in downtown Asheville. He said the expenditure must now be approved by the full House Appropriations Committee and the project continues to move along successfully.

RALPH BISHOP - CITY MANAGER'S SALARY

Ralph Bishop spoke to members of Council relative to the recent increase in the City Manager's salary.

VII. ADJOURNMENT

Vice-Mayor Michalove adjourned the meeting at 5:07 p.m.

MAYOR

William F. Maloney
CITY CLERK

Tuesday - July 25, 1989 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Wilhelmina Bratton, Russell Martin and A. Robert York; Acting Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Norma T. Price - Corporation Counsel William F. Slawter

INVOCATION

The invocation was given by Mayor Bissette.

APPROVAL OF MINUTES

Mayor Bissette announced the approval of the minutes of the July 18, 1989 meeting.

I. PROCLAMATIONS:

A. Proclamation - July 29 - August 5, 1989 - "Swim-A-Cross Week" - August 3, 1989 - "Lifeguard Competition Day" - July 29, 1989 - "Belly Flop Day"

Mayor Bissette read the proclamation and presented a copy to John Teeter, Chairman of the Asheville Area American Red Cross and several representatives from the Red Cross.

B. ESTABLISHMENT OF COMMITTEE - "PEOPLE FOR JUSTICE" TASK FORCE

Vice-Mayor Michalove said in light of the comments made at last week's Council meeting by the members of the "People for Justice" Task Force from Mountainside Apartments several Council members attended a meeting of the Task Force on Monday night. He said a number of concerns were discussed that should be looked into. He said after discussing the issue Council members feel

that the proper approach is to establish a multi-facet committee to look into the concerns and make recommendations to Council. He said the committee would be made up of four (4) members of the "People for Justice" Task Force, the City Manager, one or two members of Council, the Police Chief and other representatives of the Police Department that may need to be involved; Community Relations Council, and other staff or boards and commissions that may be helpful. He said the committee would work with and through the Community Relations Council Board. He said the committee would provide the Community Relations Council Board would all the details of their concerns and the Board would formulate these concerns and make recommendations to City Council in a time period not to exceed sixty (60) days.

Vice-Mayor Michalove presented his comments in the form of a motion, which motion was seconded by Councilman Martin and carried unanimously.

Larry Linney, Attorney representing the "People for Justice" Task Force, said it was his hope that the committee would do something about the problems rather than just discussing the issues.

Clarence Benton, with the Task Force, said the members would rather work as an autonomous board rather than under the direction of the Community Relations Council Board.

Dwight Mullen, Chairman of the Community Relations Council, said the Board would not be biased in its discussions and urged the Task Force to continue its efforts and promised that the Board would work with the Task Force.

II. PUBLIC HEARINGS:

A. Public hearing relative to Blue Ridge Industries Expansion

Mayor Bissette said the Asheville Planning and Zoning Commission on July 5, 1989, reviewed and approved the site plan subject to the following contingencies:

1) City Council granting a variance on the requirement for paving the parking lot;
2) Letter from Fire Department stating approval of fire protection for the project; and
3) Approval of erosion control plan by Planning Department prior to soil disturbance.

Mayor Bissette opened the public hearing at 4:45 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Tom Elmore from the Planning Department presented the site plan. He said Blue Ridge Industries is located at the corner of Long Shoals Road and Hendersonville Road and they are planning an expansion of 12,000 square feet to the existing factory. He said they are requesting a variance from the code on the requirement for paving the parking lot. He said there are 12 full time employees that would be using the parking lot. He said the Planning Board recommends that the variance be granted since the parking lot is well maintained and functional without paving. He said the other contingencies have been resolved.

A representative of Blue Ridge Industries spoke in support of the project and the requested variance.

Councilman Martin and Councilman Frank said in their opinion if the requirement for paving is in the code it should be adhered to or the code should be amended.

Mike Moser, Chairman of the Planning and Zoning Commission, said the commission felt the request for the variance was reasonable. He said he did not know why the requirement for paving is in the code.

Mayor Bissette closed the public hearing at 4:59 p.m.

Vice-Mayor Michalove moved to approve the site plan for the Blue Ridge Industries Expansion project as recommended by the Planning and Zoning Commission and to grant the requested variance in order to produce a successful project. This motion was seconded by Councilman York and carried on a voice vote of 4-2 with Councilman Frank and Councilman Martin voting "no."

B. **Public hearing relative to zoning of Pawn World Gun Supply property annexed into City of Asheville effective July 1, 1989.**

Ordinance No. 1775 - Ordinance amending the Zoning Ordinance and the zoning map of the City of Asheville to provide for zoning of property located on Highway 19-23 and identified as Lower Hominy Ward, Sheet 9, Lot 116 of the Buncombe County Tax Maps.

Mayor Bissette said the Asheville Planning and Zoning Commission on July 5, 1989, reviewed and recommended approval of zoning the property CH Commercial Highway District.

Mayor Bissette opened the public hearing at 5:00 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, with the Planning Department, said the Planning and Zoning Commission recommended that the property be zoned Commercial Highway to allow for the commercial use of a pawn shop and the gun shop as well as the other rental structures on the property. He said no opposition was received during the Planning and Zoning Commission public hearing.

Mayor Bissette closed the public hearing at 5:06 p.m.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Frank moved for the adoption of Ordinance No. 1775. This motion was seconded by Councilman Bratton.

On a roll call vote of 6-0, Ordinance No. 1775 passed on first reading.

C. **Public hearing relative to nonpartisan elections and district representation.**

Mayor Bissette said the City Council intends to consider an ordinance amending the Charter of the City of Asheville to provide for municipal elections within the City of Asheville to be conducted by nonpartisan plurality as provided in N.C. Gen. Stat. sec. 163-292, by nonpartisan election and runoff election as provided in N.C. Gen. Stat. sec. 163-293 or by nonpartisan primary and election as provided in N.C. Gen. Stat. sec. 163-294 all as provided in N.C. Gen. Stat. sec. 160A-101(7).

The Council further intends to consider an ordinance amending the Charter to provide for municipal elections with the City of Asheville to be conducted on the basis of a portion of or all candidates for City Council to be nominated and elected by district as provided in N. C. Gen. Stat. sec. 160A-101 (6) b, c, d or e.

N. C. Gen. Stat. sec. 160A-102 provides that a public hearing be held on the proposed Charter amendments not more than 45 days after adoption of a resolution of intent, which was adopted on June 20, 1989.

Mayor Bissette opened the public hearing at 5:09 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

The following individuals spoke relative to partisan/nonpartisan elections and district representations:

Rendall Davis - 285 White Pine Drive - President of the Kenilworth Forest Association - in favor of retaining partisan elections and in favor of district representation.

Lewis Clay -	1037 New Haw Creek Road - in favor of nonpartisan elections and against district representation.
Hazel Fobes -	Beaverbrook Road - in favor of district representation and partisan elections.
Ben McKenzie-	191 Charlotte Street - against district representation - in favor of partisan elections.
Harold Holcome-	not a city resident - in favor of nonpartisan elections - against district representation.
Paul Godfrey -	72 Henrietta Street - in favor of district representation.
George Tisdale-	65 Shorewood Drive - in favor of partisan elections
Kevin Clark -	294 White Pine Drive - in favor of partisan elections.
Susan Patterson	- 70 N. Liberty Street - in favor of district representation
Ron Lamb -	104 Trotter Place - in favor of district representation - in favor of partisan elections.
Larry Linny -	36 Elizabeth Street - against district representation - in favor of nonpartisan elections
Mike Moser -	3 Brushwood Road - supports nonpartisan elections - against district representation.
Gene Ellison -	in favor of partisan elections - in favor of district representation
Joe Webster -	7 Von Ruck Court - in favor of partisan elections - in favor of district representation.

Emanuel J. Coutlakis - 174 Pearson Drive - in favor of district representation - in favor of partisan elections.

Ernie Thurston- 19 Panola Street - in favor of partisan elections and district representation.

Bob Plemmons - Linden Avenue - read story made up about Council members

Beth Arrowood- 17 Woodcrest - First Vice-Chairman of Democratic Party - in favor of partisan elections and district representation.

Susan Fisher - 15 Maple Ridge Lane - President of League of Women Voters - no official stand - in favor of referendum

Shirley Beaty - 706 River Ridge Drive - supports separate referendums on partisan/nonpartisan elections and district representation.

Liddy Sidnick - 90 Gertrude Place - in favor of partisan elections and district representation for Council Members and at large representation for the Mayor.

Ralph Bishop -

Gene Ochsenreiter - in favor of partisan elections.

Mayor Bissette closed the public hearing at 6:29 p.m. and said a representative from the Institute of Government would be at the Council meeting next week to discuss and answer questions relative to partisan/nonpartisan elections and district representation.

III. OLD BUSINESS:

A. Ordinance No. 1774 - Second reading of an ordinance rezoning property at 391-393 Hendersonville Road for Buncombe County Board of Education.

Mayor Bissette said the Asheville Planning and Zoning Commission on June 7, 1989, reviewed and recommended approval of rezoning Lot 52, Sheet 4, Ward 7, from R-3 Residential District and CS Commercial Service District to CH Commercial Highway District excepting that portion of Lot 52 lying 150 feet from the centerline of Vanderbilt Road and that portion be rezoned from R-3 Residential District to R-1 Residential District. This ordinance was read on first reading on July 18, 1989.

Mayor Bissette said the ordinance was previously read on first reading and will not be reread in its entirety.

John Seay, Jr., representative of the Preservation Society of Buncombe County, appealed to Council not to rezone the property. He said the structures are significantly historic and if the property is rezoned the structures could be demolished.

Martha Fullington, Preservationist, said the State has acknowledged that the structures on the property in question have the potential of being designated on the National Register as historical structures. She also appealed to Council not to rezone the property because the structures then may be demolished.

Marjorie Mann, Attorney with Roberts, Stevens and Cogburn, representing the Buncombe County School Board, spoke in support of the rezoning. She reminded members of Council that the entire property surrounding the property in question is zoned Commercial with the exception of property facing Vanderbilt Road. She said the best use of the property is commercial zoning.

Mayor Bissette suggested that the concerns relative to the historical designations be taken to the Buncombe County School Board since they own and control the property.

On a roll call vote of 6-0, Ordinance No. 1774 passed on second reading.

IV. NEW BUSINESS:

A. Ordinance No. 1776 - Budget Ordinance amendment to provide for a grant from N. C. Humanities Council for Asheville Colored Cemetery Study.

Mayor Bissette said this amendment will provide a local match for grant from N.C. Humanities Council for Asheville Colored Cemetery Study. This will also provide total funding of $7,050 for the study with a local match of $3,400 provided from the General Fund - Contingency.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it will not be read in its entirety.

On a roll call vote of 6-0, Ordinance No. 1775 passed on first and final reading.

Ordinance Book No. 11 Page No. 468

V. CONSENT:

A. Resolution No. 89-97 - Resolution authorizing the closing of certain streets in downtown Asheville relative to the Bele Chere Festival.

SUMMARY: This resolution identifies requested street closings and details of parking regulations for Bele Chere Weekend.

Resolution Book No. 17 Page No. 447 - 449

B. Resolution No. 89-98 - Resolution authorizing the Mayor of the City of Asheville to enter into a contract for dedication of land for redevelopment for the City of Asheville.

SUMMARY: The City previously entered into an agreement with the Housing Authority for the program of reconstruction or rehabilitation of slum and blighted areas in the City of Asheville. The Housing Authority has acquired and improved

certain parcels of land known as Disposal Parcels 59-B and 66. It is in the best interest of the City to accept the parcels of land.

Resolution Book No. 17 Page No. 450

Upon motion of Vice-Mayor Michalove, seconded by Councilman Frank, the consent agenda was unanimously adopted.

VI. OTHER BUSINESS:

Resolution No. 89-99 - Resolution appointing members to the Planning and Zoning Commission

Mayor Bissette read a resolution reappointing Mike Moser, Danie Johnson, and Wanda Henry Coleman as members of the Asheville Planning and Zoning Commission.

Upon motion of Vice-Mayor Michalove, seconded by Councilman Martin, Resolution No. 89-99 was unanimously adopted.

Resolution Book No. 17 Page No. 451

CLAIMS - CONSTRUCTION HARDWARE COMPANY (SEWER) - JANET WATTS (WATER) - MYRA RAMSEY (SEWER) - MARY HUBBARD (SANITATION) - ROBERT DEWAYNE POUNDERS (TRAFFIC ENGINEERING)

The City Manager presented claims from Construction Hardware Company, Janet Watts, Myra Ramsey, Mary Hubbard, and Robert DeWayne Pounders.

Mayor Bissette referred the claims to the City Attorney for investigation and recommendation.

RALPH BISHOP - COMMENTS RELATIVE TO CITY MANAGER'S SALARY

Ralph Bishop again spoke to members of Council relative to the City Manager's recent salary increase.

VII. ADJOURNMENT

Mayor Bissette adjourned the meeting at 7:10 p.m.

MAYOR

CITY CLERK

(1))

Tuesday - August 1, 1989 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell Martin and A. Robert York; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Vice-Mayor Michalove.

APPROVAL OF MINUTES

Mayor Bissette announced the approval of the minutes of the July 25, 1989 meeting as submitted.

PARTISAN/NONPARTISAN ELECTION AND DISTRICT REPRESENTATION ISSUE

Mayor Bissette announced that Council would discuss the partisan/nonpartisan election and district representation issue on August 15, 1989.

TASK FORCE ESTABLISHED - "PEOPLE FOR JUSTICE"

Mayor Bissette said at last week's Council meeting Council established a Task Force to formulate the concerns from the "People for Justice" Task Force. He said the make up of that committee would be Councilman York, Police Chief Gerald Beavers, City Manager Doug Bean, Dwight Mullen, Chairman of the Asheville-Buncombe Community Relations Council and four representatives from the "People for Justice" Task Force to include Andrea Purcell, Marilyn Bass, Otis Ware, and Lydia James. He said the group would be working through the Asheville-Buncombe Community Relations Council.

BELLY-FLOP CONTEST - ASHEVILLE AREA AMERICAN RED CROSS

Mayor Bissette announced that Vice-Mayor Michalove won the Asheville Area American Red Cross Belly-flop Contest "hands-down".

I. PROCLAMATIONS:

II. PUBLIC HEARINGS:

A. Public hearing relative to rezoning property located at 614 Hendersonville Road for Mr. Robert Reeves.

Ordinance No. 1774 - An ordinance rezoning property located at 614 Hendersonville Road for Mr. Robert Reeves

Mayor Bissette said the Asheville Planning and Zoning Commission on July 5, 1989, reviewed and recommended approval of rezoning Ward 7, Sheet 5, Lot 17, from R-3 Residential District to CH Commercial Highway District.

Mayor Bissette opened the public hearing at 4:20 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Carol Alberice, from the Planning Department, presented the rezoning request. She said the property is located on the corner of Hendersonville Road and Fairview Road and is currently used as a commercial automobile repair shop. She reviewed the surrounding zoning in the area and said the rezoning is in accordance with the comprehensive plan. She said two comments were received from area residents - one requesting that their property be rezoned and one opposed to the noise from the repair shop but not opposed to the rezoning.

Robert Reeves, petitioner, requested that the ordinance be read on all three readings at today's meeting. He said he was faced with a time problem in dealing with the North Carolina Department of Transportation on a right-of-way problem.

Mayor Bissette closed the public hearing at 4:28 p.m.

Mayor Bissette said members of Council were previously presented copies of the ordinance and it would not be read in its entirety.

Vice-Mayor Michalove moved for the adoption of Ordinance No. 1774. This motion was seconded by Councilman Frank.

On a roll call vote of 7-0, Ordinance No. 1774 passed on first reading.

B. **Public hearing relative to Grove Park Inn - Staff Housing - Group Development**

Mayor Bissette said the Asheville Planning and Zoning Commission on July 5, 1989, reviewed and recommended approval of the site plan subject to the following contingencies:

1. Approval of erosion control plan by the Planning Department.

2. Approval by Planning Director of on-site lighting; and

3. Approval by Planning Director of on-site noise generating mechanical units.

Mayor Bissette opened the public hearing at 4:29 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Mayor Bissette said a request has been received to continue this public hearing until August 8, 1989.

Councilman Price moved to continue the public hearing until August 8, 1989 without further advertisement. This motion was seconded by Councilman Martin and carried unanimously.

C. **Public hearing relative to 4-unit apartment North and Forsyth Streets - William R. Lewis, Owner - Group Development**

Mayor Bissette said the Asheville Planning and Zoning Commission on July 5, 1989, reviewed and recommended approval of the site plan subject to the following contingencies:

1. Approval of erosion control plan by the Planning Department prior to soil disturbance; and

2. Planning Director approval of a revised site plan depicting: a) a proposed buffer meeting the specifications of the buffer ordinance, and b) a functional parking arrangement that meets the standards of the ordinance.

Mayor Bissette opened the public hearing at 4:31 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Tom Elmore, with the Planning Department, said the developer plans to construct a two-story four unit house at the corner of North and Forsyth Street. He said the property is zoned R-3 Residential. He said there is a buffer proposed on the north and south of the property. He said the Board of Adjustment approved a 20' setback for the front yard; lot area of 12,501; and lot width of 50'. He said all contingencies placed on the approval by the Planning and Zoning Commission have been resolved.

Mr. Elmore said a petition was presented to the Planning and Zoning Commission by Norma Creighton, with thirty-three (33) signatures in general opposition. He said the petition stated such concerns as maintenance, setbacks, grading, and screening of garbage dumpsters.

A discussion was held relative to the screening of garbage receptacles. It was determined that a dumpster was not required for the project that a maximum of six (6) garbage cans could be used.

Mayor Bissette closed the public hearing at 4:40 p.m.

Councilman York moved to approve the site plan for the 4-unit apartment at North and Forsyth Streets as recommended by the Planning and Zoning Commission and further that appropriate screening be maintained around the garbage receptacles. This motion was seconded by Councilman Price and carried unanimously.

III. OLD BUSINESS:

A. Ordinance No. 1774 - Third reading of an ordinance rezoning property at 391-393 Hendersonville Road for Buncombe County Board of Education.

Mayor Bissette said the Asheville Planning and Zoning Commission on June 7, 1989, reviewed and recommended approval of rezoning Lot 52, Sheet 4, Ward 7, from R-3 Residential District and CS Commercial Service District to CH Commercial Highway District excepting that portion of Lot 52 lying 150 feet from the centerline of Vanderbilt Road and that portion be rezoned from R-3 Residential District to R-1 Residential District.

Mr. Yarborough, Superintendent of the Buncombe County School System, spoke in support of the rezoning.

Mayor Bissette said the ordinance was previously read on first and second readings and would not be reread in its entirety.

On a roll call vote of 7-0, Ordinance No. 1774 passed on third and final reading.

Ordinance Book No. 11 Page No. 465

B. Ordinance No. 1775 - Second reading of an ordinance zoning property annexed into City of Asheville effective July 1, 1989 known as Pawn World Gun Supply

Mayor Bissette said the Asheville Planning and Zoning Commission on July 5, 1989, reviewed and recommended approval of zoning the property CH Commercial Highway District.

Mayor Bissette said the ordinance was previously read on first and second readings and would not be reread in its entirety.

On a roll call vote of 7-0, Ordinance No. 1775 passed on second reading.

IV. NEW BUSINESS:

A. Resolution No. 89-100 - Resolution authorizing Mayor to execute an inter local agreement for the War on Drug Commission.

Mayor Bissette said this resolution will allow the Mayor to execute an inter local agreement for the establishment of a Buncombe County War on Drug Commission to consist of ten (10) members composing a Board of Directors. The ten members will be professional individuals appointed by the Buncombe County Commissioners, Asheville City Council, and all of the incorporated townships existing in Buncombe County.

Mayor Bissette said the City Council appointees to the Commission would be William Young and Arthur Eddington.

Upon motion of Councilman Martin, seconded by Councilman Price, Resolution No. 89-100 was unanimously adopted.

Resolution Book No. 17 Page No. 452 - 453

V. CONSENT:

A. Resolution No. 89-101 - Resolution of intent to close a portion of Westwood Place and calling a public hearing on the question for August 29, 1989.

SUMMARY: A petition was received requesting a portion of Westwood Place from 312 Westwood Place to its Dead End be closed to public use. This portion of Westwood Place is totally surrounded by property owned by the petitioner.

Resolution Book No. 17 Page No. 454 - 455

B. Resolution No. 89 - 102 - Resolution authorizing the Mayor to execute on behalf of the City of Asheville a right-of-way agreement between the City of Asheville and Mack McCoy and wife, Glenda Marlene McCoy.

SUMMARY: A portion of property required as right-of-way for the Hazel Mill Road Bridge Replacement Project will require a driveway right-of-way for access to the McCoy property. The property owned by Norman Smith had a right-of-way for the McCoy driveway, which must be relocated to accommodate the new bridge. This right-of-way agreement will establish a right-of-way through the property to accommodate a driveway to the McCoy property.

Resolution Book No. 17 Page No. 456 - 457

C. Resolution No. 89 - 103 - Resolution authorizing execution of a cooperative agreement with the U.S. Department of Housing and Urban Development for a Fair Housing Assistance Grant.

SUMMARY: The City has received a Cooperative Agreement from HUD for the third year funding of $3,650 to continue implementation of the fair housing program.

Resolution Book No. 17 Page No. 458

Upon motion of Councilman Frank, seconded by Councilman York, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

CITY MANAGER - COMMENTS RELATIVE TO BELE CHERE

The City Manager said he was very pleased with the manner in which the thousands of volunteers and the many city employees conducted the Bele Chere Festival. He said in his opinion there were less problems this year than any other year. He said even though the employees were paid their attitude was that of pride in working for the City and making Bele Chere a success. He said he has received many positive comments about the success of Bele Chere.

CLAIMS - MRS. JAMES HYATT (WATER) - CLARENCE WORRALL (WATER) - GEORGIA JEFFERSON (STREETS)

The City Manager presented claims received from Mrs. James Hyatt, Clarence Worrall, and Georgia Jefferson.

Mayor Bissette referred the claims to the City Attorney for investigation and recommendation.

VII. ADJOURNMENT

Mayor Bissette adjourned the meeting at 5:00 p.m.

MAYOR

CITY CLERK

Tuesday - August 8, 1989 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell Martin and A. Robert York; Corporation Counsel William F. Slawter; Assistant City Manager Charles Penny; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Robert York (Sickness in Family)
City Manager Douglas O. Bean (Vacation)

INVOCATION

The invocation was given by Councilman Frank.

APPROVAL OF MINUTES

Mayor Bissette announced the approval of the minutes of the August 8, 1989 meeting as submitted.

I. PROCLAMATIONS:

A. Resolution No. 89-104 - Resolution of congratulations and encouragement for Lynette McClain.

Ray Kisiah, Director of Parks, Recreation, and Public Facilities, introduced Lynette McClain, who won first place finishes in the N.C. Track and Field Meet. He said she would be competing in the National Championships in Hershey, Pennsylvania, August 10 - 13, 1989.

Mayor Bissette read a resolution congratulating Lynette McClain on her accomplishments and wishing her every possible success in the National Championships in Hershey, Pennsylvania, August 10 - 13, 1989.

Upon motion of Vice-Mayor Michalove, seconded by Councilman Price, Resolution No. 89-104 was unanimously adopted.

Resolution Book No. 17 Page No. 459

II. PUBLIC HEARINGS:

A. Continuation of a public hearing relative to Grove Park Inn - Staff Housing - Group Development

Mayor Bissette said the Asheville Planning and Zoning Commission on July 5, 1989, reviewed and recommended approval of the site plan subject to the following contingencies:

1. Approval of erosion control plan by the Planning Department prior to soil disturbance;

2. Approval by Planning Director of on-site lighting; and

3. Approval by Planning Director of on-site noise generating mechanical units.

Mayor Bissette said this public hearing was continued from the August 1, 1989 meeting. He said he has received another request that the public hearing be postponed for two (2) weeks giving the developer an opportunity to prepare a proposal that would address the concerns of the residents in the neighborhood. He said the developer would also like to meet with the residents to go over their proposal prior to Council hearing the matter.

Councilman Bratton moved to continue the public hearing on the Grove Park Inn - Staff Housing - Group Development for two (2) weeks without further advertisement. This motion was seconded by Councilman Martin and carried unanimously.

Max Haner, with the Grove Park/Sunset Association, said they would support the two weeks continuance if they would be afforded an opportunity to meet with the developer on their proposal.

III. OLD BUSINESS:

A. Ordinance No. 1777 - Second reading of an ordinance relative to rezoning property located at 614 Hendersonville Road for Mr. Robert Reeves.

Mayor Bissette said the Asheville Planning and Zoning Commission on July 5, 1989, reviewed and recommended approval of rezoning Ward 7, Sheet 5, Lot 17, from R-3 Residential District to CH Commercial Highway District.

Mayor Bissette said this ordinance was previously read on first reading and would not be reread.

On a roll call vote of 6-0, Ordinance No. 1777 passed on second reading.

Vice-Mayor Michalove moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1777. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1777 passed on third and final reading.

Ordinance Book No. 11 Page No. 469

B. Ordinance No. 1775 - Third reading of an ordinance zoning property annexed into City of Asheville effective July 1, 1989 known as Pawn World Gun Supply

Mayor Bissette said the Asheville Planning and Zoning Commission on July 5, 1989, reviewed and recommended approval of zoning the property CH Commercial Highway District.

Mayor Bissette said this ordinance was previously read on first reading and would not be reread.

On a roll call vote of 6-0, Ordinance No. 1777 passed on third and final reading.

Ordinance Book No. 11 Page No. 466 - 467

IV. NEW BUSINESS:

A. Ordinance No. 1778 - Budget ordinance amendment to appropriate funds for a transitional shelter for the homeless.

Mayor Bissette said this amendment will provide $100,000 to Hospitality House to establish a Transitional Shelter for the homeless.

Marvin Vierra, Director of Community Development, outlined the proposal from the Hospitality House for a transitional shelter. He said the funds would be used to rehabilitate an existing structure for a transitional shelter. He said the property is located in the East End/Valley Street area. He said the property would be acquired by the Housing Authority and title would be transferred to the Hospitality House. He said a contract for the operation of a transitional shelter would be executed with Hospitality House.

Vice-Mayor Michalove said he would like to be assured that the funds are well spent. He questioned whether the market value of the house being used would compensate for the expenditures.

Councilman Martin moved for the adoption of Ordinance No. 1778. This motion was seconded by Councilman Frank.

On a roll call vote of 6-0, Ordinance No. 1778 passed on first and final reading.

Ordinance Book No. 11 Page No. 470

B. Ordinance No. 1779 - Ordinance amending Chapter 25 (Streets and Sidewalks) of the Code of Ordinances of the City of Asheville regarding group demonstrations.

The City Attorney explained that this amendment will allow group demonstrations during daylight hours for as long as a month without paying the additional administrative fee so long as there are five or fewer individuals involved. For parades or demonstrations in excess of five persons, a separate fee would still be required each day.

Upon inquiry of John Walsh, the City Attorney said this action is not in violation of the First Amendment of the Constitution.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Vice-Mayor Michalove moved for the adoption of Ordinance No. 1779. This motion was seconded by Councilman Frank.

On a roll call vote of 6-0, Ordinance No. 1779 passed on first reading.

V. CONSENT:

A. Resolution No. 89-105 - Resolution calling for a public hearing for the adoption of an ordinance directing the Director of Inspections to demolish the dwelling known as 66 Elizabeth Place for August 29, 1989.

SUMMARY: A Finding of Fact and Order was entered finding that dwelling known and designated as 66 Elizabeth Place, in its present condition, as being dilapidated, unfit for human habitation and extremely dangerous. A public hearing is required prior to the demolition of same.

Resolution Book No. 17 Page No. 460 - 461

Upon motion of Councilman Frank, seconded by Councilman Price, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

DWELLING OFF OAKLAND ROAD- COUNCILMAN BRATTON

Upon inquiry of Councilman Bratton, the Assistant City Manager said staff is in the process of investigating the complaint of Julia Duther regarding a dwelling and its premises off Oakland Road. He said the City staff will have the premises cleaned on the eleventh day after notification to the property owner that the premises be cleaned.

REPORT OF GROUP DEVELOPMENT ACTIONS BY THE PLANNING AND ZONING COMMISSION

Julia Cogburn, Director of Planning Department, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. She said in accordance with the procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. She said the following action was taken by the Planning and Zoning Commission at their meeting on August 2, 1989.

Cisco Road Apartments - Group Development Review

Julia Cogburn said the Asheville Planning and Zoning Commission on August 2, 1989 reviewed and approved the site plan of the Cisco Road Apartments - Group Development subject to the following contingencies:

1) Approval of erosion control plan by the Planning Department prior to soil disturbance; 2) Installation of an approved residential sprinkler system and receipt of the proposed right-of-way dedication prior to issuance of certificate of occupancy; and 3) Installation of septic tank system not to impose on any required buffering of the project.

Ms. Cogburn said a request was received from Barbara Melton, representing the Haw Creek Homeowners Association that a public hearing be held on this matter.

Councilman Price moved to schedule a public hearing relative to the Cisco Road apartments for August 29, 1989. This motion was seconded by Vice-Mayor Michalove and carried unanimously.

Continuation of a public hearing relative to Grove Park Inn - Staff Housing - Group Development - Reconsidered/Rescheduled

Councilman Price moved to reconsider the motion continuing the public hearing relative to Grove Park Inn - Staff Housing - Group Development for August 22, 1989 and moved to continue the public hearing until August 29, 1989 without further advertisement. This motion was seconded by Councilman Martin and carried unanimously.

Council requested that all parties involved in the Grove Park Inn -

Staff Housing - Group Development - be notified that the public hearing will be continued until August 29, 1989.

CLAIMS - BRUCE CASE (SEWER) - R. JOHN BUNDROCK (PARKS) - HAROLD TALBERT (DOWNTOWN DEVELOPMENT)

The Assistant City Manager presented claims received from Bruce Case, R. John Bundrock, and Harold Talbert.

Mayor Bissette referred the claims to the City Attorney for investigation and recommendation.

RALPH BISHOP - LOTTERY SALES

Ralph Bishop again spoke to members of Council relative to lottery sales in the City of Asheville.

VII. ADJOURNMENT.

Mayor Bissette adjourned the meeting at 5:05 p.m.

MAYOR

CITY CLERK

Tuesday - August 15, 1989 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell Martin and A. Robert York; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Councilman Bratton.

APPROVAL OF MINUTES

Mayor Bissette announced the approval of the minutes of the August 8, 1989 meeting as submitted.

I. PROCLAMATIONS:

A. Resolution No. 89-106 - Resolution of appreciation to James L. Anderson - recent retiree of the City of Asheville

Mayor Bissette read the resolution stating that James Anderson was employed by the City for 29 years in the Public Works Department in the Street Division as a Labor Crew Supervisor I.

Upon motion of Councilman Frank, seconded by Councilman Bratton, Resolution No. 89-106 was unanimously adopted.

Mayor Bissette presented the framed resolution of appreciation to James L. Anderson.

Resolution Book No. 17 Page No. 462

Resolution No. 89-107 - Resolution of appreciation to Harry K. Black - recent retiree of the City of Asheville

Mayor Bissette read the resolution stating that Harry K. Black was employed by the City for 28 years in the Fire Department as a Company Commander.

Upon motion of Councilman Frank, seconded by Councilman Bratton, Resolution No. 89-107 was unanimously adopted.

Mayor Bissette said the framed resolution of appreciation will be presented to Harry K. Black.

Resolution Book No. 17 Page No. 463

Resolution No. 89-108 - Resolution of appreciation to Fred Blankenship - recent retiree of the City of Asheville

Mayor Bissette read the resolution stating that Fred Blankenship was employed by the City for 17 years in the Fire Department as a Firefighter III.

Upon motion of Councilman Frank, seconded by Councilman Bratton, Resolution No. 89-108 was unanimously adopted.

Mayor Bissette said the framed resolution of appreciation will be presented to Fred Blankenship.

Resolution Book No. 17 Page No. 464

Resolution No. 89-109 - Resolution of appreciation to Carroll Bryson - recent retiree of the City of Asheville

Mayor Bissette read the resolution stating that Carroll Bryson was employed by the City for 18 years in the Fire Department as a Firefighter III.

Upon motion of Councilman Frank, seconded by Councilman Bratton, Resolution No. 89-109 was unanimously adopted.

Mayor Bissette said the framed resolution of appreciation will be presented to Carroll Bryson.

Resolution Book No. 17 Page No. 465

Resolution No. 89-110 - Resolution of appreciation to David Bryson - recent retiree of the City of Asheville

Mayor Bissette read the resolution stating that David Bryson was employed by the City for 28 years in the Fire Department as a Fire District Chief.

Upon motion of Councilman Frank, seconded by Councilman Bratton, Resolution No. 89-110 was unanimously adopted.

Mayor Bissette presented the framed resolution of appreciation to David Bryson.

Resolution Book No. 17 Page No. 466

Resolution No. 89-111 - Resolution of appreciation to Herman Crisp - recent retiree of the City of Asheville

Mayor Bissette read the resolution stating that Herman Crisp was employed by the City for 29 years in the Public Works Department in the Street Division as a Labor Crew Supervisor III.

Upon motion of Councilman Frank, seconded by Councilman Bratton, Resolution No. 89-111 was unanimously adopted.

Mayor Bissette said the framed resolution of appreciation will be presented to Herman Crisp.

Resolution Book No. 17 Page No. 467

Resolution No. 89-112 - Resolution of appreciation to Ray Cooper - recent retiree of the City of Asheville

Mayor Bissette read the resolution stating that Ray Cooper was employed by the City for 12 years in the Fire Department in the Inspections Division as an Electrical Inspections Specialist.

Upon motion of Councilman Frank, seconded by Councilman Bratton, Resolution No. 89-112 was unanimously adopted.

Mayor Bissette said the framed resolution of appreciation will be presented to Ray Cooper.

Resolution Book No. 17 Page No. 468

Resolution No. 89-113 - Resolution of appreciation to Ruby Godwin - recent retiree of the City of Asheville

Mayor Bissette read the resolution stating that Ruby Godwin was employed by the City for 22 years in the Water Department in the Customer Services Division as a Customer Service Representative II.

Upon motion of Councilman Frank, seconded by Councilman Bratton, Resolution No. 89-113 was unanimously adopted.

Mayor Bissette said the framed resolution of appreciation will be presented to Ruby Godwin.

Resolution Book No. 17 Page No. 469

Resolution No. 89-114 - Resolution of appreciation to Fred Hensley - recent retiree of the City of Asheville

Mayor Bissette read the resolution stating that Fred Hensley was employed by the City for 31 years in the Police Department as the Police Chief.

Upon motion of Councilman Frank, seconded by Councilman Bratton, Resolution No. 89-114 was unanimously adopted.

Mayor Bissette said the framed resolution of appreciation will be presented to Fred Hensley.

Resolution Book No. 17 Page No. 470

Resolution No. 89-115 - Resolution of appreciation to Jane Hollars - recent retiree of the City of Asheville

Mayor Bissette read the resolution stating that Jane Hollars was employed by the City for 12 years in the Fire Department as a Secretary.

Upon motion of Councilman Frank, seconded by Councilman Bratton, Resolution No. 89-115 was unanimously adopted.

Mayor Bissette said the framed resolution of appreciation will be presented to Jane Hollars.

Resolution Book No. 17 Page No. 471

Resolution No. 89-116 - Resolution of appreciation to Bobby Ingle - recent retiree of the City of Asheville

Mayor Bissette read the resolution stating that Bobby Ingle was employed by the City for 24 years in the Fire Department as a Firefighter III.

Upon motion of Councilman Frank, seconded by Councilman Bratton, Resolution No. 89-116 was unanimously adopted.

Mayor Bissette presented the framed resolution of appreciation to Bobby Ingle.

Resolution Book No. 17 Page No. 472

Resolution No. 89-117 - Resolution of appreciation to Kathryn Jones - recent retiree of the City of Asheville

Mayor Bissette read the resolution stating that Kathryn Jones was employed by the City for 6 years in the Water Department in the Customer Services Division as a Customer Service Representative.

Upon motion of Councilman Frank, seconded by Councilman Bratton, Resolution No. 89-117 was unanimously adopted.

Mayor Bissette said the framed resolution of appreciation will be presented to Kathryn Jones.

Resolution Book No. 17 Page No. 473

Resolution No. 89-118 - Resolution of appreciation to John Leslie - recent retiree of the City of Asheville

Mayor Bissette read the resolution stating that John Leslie was employed by the City for 13 years in the Public Works Department in the Street Division as a Motor Equipment Operator II.

Upon motion of Councilman Frank, seconded by Councilman Bratton, Resolution No. 89-118 was unanimously adopted.

Mayor Bissette said the framed resolution of appreciation will be presented to John Leslie.

Resolution Book No. 17 Page No. 474

Resolution No. 89-119 - Resolution of appreciation to Robert Lunsford - recent retiree of the City of Asheville

Mayor Bissette read the resolution stating that Robert Lunsford was employed by the City for 21 years in the Parks and Recreation Department as a Motor Equipment Operator III.

Upon motion of Councilman Frank, seconded by Councilman Bratton, Resolution No. 89-119 was unanimously adopted.

Mayor Bissette presented the framed resolution of appreciation to Robert Lunsford.

Resolution Book No. 17 Page No. 475

Resolution No. 89-120 - Resolution of appreciation to Walter Masters - recent retiree of the City of Asheville

Mayor Bissette read the resolution stating that Walter Masters was employed by the City for 25 years in the Police Department as a Police Officer Senior.

Upon motion of Councilman Frank, seconded by Councilman Bratton, Resolution No. 89-120 was unanimously adopted.

Mayor Bissette said Walter Masters is now deceased, however a copy of the resolution of appreciation will be presented to his family.

Resolution Book No. 17 Page No. 476

Resolution No. 89-121 - Resolution of appreciation to Lemuel Moore, Jr. - recent retiree of the City of Asheville

Mayor Bissette read the resolution stating that Lemuel Moore, Jr. was employed by the City for 16 years in the Fire Department in the Inspections Divisions as the Building Inspections Director.

Upon motion of Councilman Frank, seconded by Councilman Bratton, Resolution No. 89-121 was unanimously adopted.

Mayor Bissette said the framed resolution of appreciation will be presented to Lemuel Moore, Jr.

Resolution Book No. 17 Page No. 477

Resolution No. 89-122 - Resolution of appreciation to Johnny Queen - recent retiree of the City of Asheville

Mayor Bissette read the resolution stating that Johnny Queen was employed by the City for 28 years in the Fire Department as an Associate Fire Marshall.

Upon motion of Councilman Frank, seconded by Councilman Bratton, Resolution No. 89-122 was unanimously adopted.

Mayor Bissette presented the framed resolution of appreciation to Johnny Queen.

Resolution Book No. 17 Page No. 478

Resolution No. 89-123 - Resolution of appreciation to Kathleen Shelton - recent retiree of the City of Asheville

Mayor Bissette read the resolution stating that Kathleen Shelton was employed by the City for 21 years in the Finance Department in the Collections Division as a Customer Service Representative II.

Upon motion of Councilman Frank, seconded by Councilman Bratton, Resolution No. 89-123 was unanimously adopted.

Mayor Bissette presented the framed resolution of appreciation to Kathleen Shelton.

Resolution Book 17 Page 479

Resolution No. 89-124 - Resolution of appreciation to Scott Wheeler - recent retiree of the City of Asheville

Mayor Bissette read the resolution stating that Scott Wheeler was employed by the City for 15 years in the Police Department as a Police Officer Senior.

Upon motion of Councilman Frank, seconded by Councilman Bratton, Resolution No. 89-124 was unanimously adopted.

Mayor Bissette said the framed resolution of appreciation will be presented to Scott Wheeler.

Resolution Book No. 17 Page No. 480

B. Proclamation - "Housing Now Day" - October 7, 1989

Mayor Bissette read the proclamation and presented a copy to Monroe Gilmour with Housing Now, who highlighted the events taking place prior to the October 7, 1989 national march for Housing Now to be held in Washington, D. C. to request an end to homelessness through the creation of affordable housing.

II. PUBLIC HEARINGS:

III. OLD BUSINESS:

A. Ordinance No. 1780 - An Ordinance amending the City Charter of the City of Asheville pursuant to North Carolina General Statute Sec. 160A-102 to provide for election of the Asheville City Council by the nonpartisan election and runoff election method as set forth in North Carolina General Statute Sec. 163-293.

Ordinance No. 1781 - An Ordinance amending the City Charter of the City of Asheville pursuant to North Carolina General Statute Sec. 160A-102 to provide for election of members of City Council by district as authorized by North Carolina General Statute Section 160A-101(6)c

Mayor Bissette said the City Council intends to consider an ordinance amending the Charter of the City of Asheville to provide for municipal elections within the City of Asheville to be conducted by nonpartisan plurality as provided in N.C. Gen. Stat. sec. 163-292, by nonpartisan election and runoff election as provided in N.C. Gen. Stat. sec. 163-293 or by nonpartisan primary and election as provided in N.C. Gen. Stat. sec. 163-294 all as provided in N.C. Gen. Stat. sec. 160A-101(7).

He said the Council further intends to consider an ordinance amending the Charter to provide for municipal elections with the City of Asheville to be conducted on the basis of a portion of or all candidates for City Council to be nominated and elected by district as provided in N. C. Gen. Stat. sec. 160A-101 (6) b, c, d or e.

Mayor Bissette said a public hearing was held on these matters on July 25, 1989. He said members of Council had discussed the issues with the Institute of Government.

Mayor Bissette read the following Statement of Council:

"The City Council will today consider an ordinance amending the City Charter of the City of Asheville to provide for district representation in the election of members to City Council. After several months of discussion, study and public hearings, it is the consensus of the Council that district representation is not in the best interest of the citizens and residents of the City. Recognizing, however, that there is substantial interest among various segments of the community, the Council believes that the issue should be put to a vote of the people.

We have been advised by the Institute of Government that Asheville will be unique in North Carolina in giving consideration to district elections without being compelled by court order to do so. Many communities have been forced by the courts to convert from an at large system to district representation due to a history of inequities resulting in under-representation for minorities. That has not been the case in Asheville.

The voters of Asheville have traditionally elected a minority representative on City Council consistent with the approximate percentage of minority residents within the City. We are advised by the Institute of Government that to have a "safe" district for maintaining a minority representative, that district must include at least 60% minority residents. Given the size and distribution of the minority population in Asheville, a change to a district system without some at large representation could negatively impact our positive tradition of minority representation. It is, therefore, the opinion of this Council that a change to district representation would create the risk of undermining a system that has provided effective representation for the minority population of this community.

In addition, women have gained increased representation on the Council with an at large system. Currently, three of the six members of City Council are women, as has been the case for several years. This Council is further of the opinion that a change to district representation might have a negative impact on the number of women elected to City Council.

During our study of district elections, we have become aware of many problems associated with the process. Each district must include approximately the same number of residents. While this can be done, it is not without significant difficulty, and the numbers are constantly changing. With each new annexation and with each new census, the districts must be revised. Other revisions may also be necessary from time to time as population patterns change.

Even at this time, we are aware of several factors that might require almost immediate changes in the boundaries of the districts. For example, the results of the 1990 census may not be available in time to use that information in drawing the districts for the 1991 election. In that case, the 1991 district boundaries would be based upon old information and the boundaries would have to be re-drawn for purposes of the 1993 election as soon as the 1990 census information does become available. In addition, there is substantial likelihood that one or more of the pending annexations would become effective after the drawing of the district boundaries for the 1991 election. Additional revision of all the district boundaries would thus be required.

The natural voting habits of the residents of the City of Asheville have kept the City in compliance with the Federal Voting Rights Act under our current at large system. If, upon a change to district representation, our tradition of representation for minorities and women is not maintained, we will be subject to challenge under that Act. Wherever district lines may be drawn, it would be impossible to satisfy everyone, thus creating the possibility of additional challenges and possible disruption of the electoral process.

We recognize the fact that the concept of district representation, on the surface, is perceived by some to provide for broader representation from various geographic areas of the City. We do not believe, however, that district representation could possibly provide the type of neighborhood representation that many of our citizens appear to expect to result. There are simply many more neighborhoods than there can possibly be representatives on City Council. In fact, the drawing of the district lines in order to create districts of equal population, especially with the gerrymandering that would be required in order to create a "safe" minority district will, of necessity divide some neighborhoods. Other neighborhoods may of necessity be placed in districts wherein their residents might feel incompatible with other members of that district on various issues that arise.

We are also concerned that district representation will create divisiveness in the community, pitting district representatives against each other to "bring home the bacon" to their districts as a necessary requirement of maintaining their position in office. In other words, the incentive of the district representative would be to meet the needs of his or her district rather than the needs of the City as a whole. While the people of Asheville have elected City Councils in the recent past with a greater than proportionate number of City Council members residing in North Asheville, those members have been elected at large to represent the City at large, and there has not been any favoritism shown toward that part of the City.

In spite of the foregoing, based upon the interest that has been expressed in the community for district representation, the Council believes that this issue should be put to a vote of the people. State law provides that a change to district representation may be initiated by either the City Council or by a petition from registered voters. We are aware of a petition being circulated within the City that would provide for district representation on City Council with six districts, meaning that there would be no members of Council elected at large except the Mayor. That petition also provides for nomination and election of all members by a vote from within the districts themselves rather than at large. Having given great study to the issue, we are uniformly of the opinion that this form of district representation is the least attractive of the alternatives available.

The law provides that, where districts are created, at least one-half of the members of Council must be elected from designated districts. We therefore must have at least three districts. The division of the City into three districts, with the remaining three members to be elected at large, however, would not allow for the creation of a "safe" minority district due to the ratio of the minority/non-minority population. The creation of such a "safe" minority district requires no less than four districts. It is this form of district representation, with four members elected from districts and two members as well as the Mayor elected at large, that this Council feels to be the best form of district representation, if indeed the voters feel that any form of district representation is to be adopted. This form of representation would provide an element of balance in providing for some members to be elected by district and others to be elected at large. It is the opinion of this Council that having six districts with no at large representatives, rather than a mixed system as the ordinance under consideration provides, would amplify the many problems referred to previously.

We also feel that a system that provides for nomination and election of members to City Council only by vote of the people within the district, rather than by vote of the people at large, is not in the best interest of the community. Such a system provides for accountability of the representatives of those districts only to the residents of those districts. We feel that this system would tend to pit one area of the City against another in competition for City services and improvements. In addition, we fear that such a system would generate a system of governing by trade-off, wherein representatives of the various districts might feel compelled to negotiate for the best interest of their individual districts rather than in the best interest of the City as a whole.

The method of district representation included in the ordinance under consideration by the Council, therefore, provides for representation on the Council by four members elected from districts and two members, as well as the Mayor, elected at large. The proposed system also calls for nomination and election of the district representatives, as well as the at large representatives and the Mayor, based upon at large voting rather than separate voting by district. While a candidate must reside within a district in order to represent that district, it is our hope that having members of Council elected at large rather than from within the districts, will create a more cohesive Council responsive to all areas of the City.

In summary, this Council does not endorse a change to district representation; however, should the voters of the City prefer to change to district representation, then this Council endorses as the best alternative a system providing for election of four representatives from districts and two representatives, as well as the Mayor, at large, with all voters in the City having the opportunity to vote on the district representatives as well as the at large representatives. Of the forms of district representation that might be selected, we feel that this form will serve best to create a governing board dedicated to the representation of the City as a whole, while ensuring geographic diversity of the members of Council."

Vice-Mayor Michalove moved for the adoption of Ordinance No. 1781. This motion was seconded by Councilman Frank.

Vice-Mayor Michalove said the Statement of Council was a consensus of Council. He said members of Council do not favor district representation and during the referendum to be scheduled for the November ballot he would work toward the defeat of district representation.

Brian Peterson said in his opinion Council developed a plan that was not specifically discussed during the public hearing. He said he felt Council's proposal is a "scam and a smoke-screen" designed to head off a petition drive to have district representation. He said he feels more than four districts are needed.

Shirlee Birdie, 76 River Ridge Drive, speaking for the League of Women Voters, said they did not have a stand on nonpartisan elections or district representation. She said they are glad the issue is being put on a ballot. She said the citizens should be informed of all the ramifications of the various options. She suggested that a Task Force be formed in order to get all the information out to the citizens. She also suggested that the issues be placed on a 1990 ballot giving citizens time to study the issues.

Joe Webster said he would like for Council to present the positive and negative sides to district representation to all citizens.

John Fobes said he felt more public input is needed and suggested that the issues be placed on a 1990 ballot. He said he would vote against the district representation as proposed by Council because it is not true district representation.

Rendall Davis of 285 White Pine Drive, opposed Council's action to put the issue on the ballot creating four districts. He urged Council to let the petition drive continue and take its course.

Hazel Fobes said she felt a Task Force is needed to research these two issues.

Johnny Walsh said the City should be adequately represented with districts and in his opinion it is not in the best interest of the City to have four members elected from districts and three at large.

Upon inquiry of Ed Schell, the City Attorney said if Council is in the process of placing these particular issues on the ballot the presentation of a petition during that time would be null and void. He said two separate items on the same subject can not be placed on the same ballot.

Upon inquiry of Ralph Bishop, Mayor Bissette said it did not cost the City any money to receive information from the Institute of Government.

On a roll call vote of 7-0, Ordinance No. 1780 passed on first reading.

Councilman Bratton requested that the following report relative to "Voting Right Act" be a part of the minutes:

MEMORANDUM TO: W. Louis Bissette Jr., Mayor
and Members of City Council

FROM: William F. Slawter, City Attorney Bill

DATE: August 11, 1989

SUBJECT: Voting Rights Act

Councilman Bratton has requested information about the Voting Rights Act — what it is and whether or not it applies to Asheville — in the context of the proposed change to a district method of electing city council members.

The Voting Rights Act was enacted in 1965, at a time when large numbers of blacks were being prevented from registering to vote, even though the statutory bars to their voting had been lifted. The devices that were being used to keep them from registering were primarily violence, harrassment, and the use of literacy tests and other screening methods. Although these practices were being challenged repeatedly in the courts, case-by-case litigation did not turn out to be an adequate solution to the problem.

Therefore, in 1965, the Voting Rights Act was enacted with the intention of putting a stop to these practices once and for all, rather than one at a time.

The act was designed to operate on two levels. First, it contained special remedies applicable to particular states or counties which had used literacy tests or similar devices in the presidential elections of 1964, 1968 or 1972 and in which less than half of the electorate was registered to vote. The act required these covered jurisdictions to "preclear" any changes in voting or election laws. This was to ensure that after the old methods of discrimination were eliminated, they would not be simply replaced by new ones. Second, the act contained a general prohibition of discriminatory practices nationwide. The general, nationwide prohibition of discriminatory practices applies to us (see Attachment A); the preclearance requirement does not.

The preclearance requirement applies to part or all of 16 states (see Attachment B). In North Carolina there are 40 counties (including the municipalities and other governmental units within those counties) to which it applies. Buncombe is not one of the covered counties. Therefore, we are not required to submit to the Attorney General any changes we might make that could directly or indirectly affect voting.

The actual text of Section 5 (the "preclearance" part) of the Voting Rights Act is in Attachment C. It's pretty tedious to try to read. What it boils down to is this: none of the covered jurisdictions can enforce any change affecting voting until they either (1) obtain a declaratory judgment from the U.S. District Court for the District of Columbia that the change would not deny or abridge the right to vote on account of race, color, or membership in a language minority group, or (2) submit the change to the Attorney General and receive no objection from him within 60 days.

There are a number of kinds of changes that potentially dilute voting strength and therefore have to be precleared. Among them are changes in the boundaries of voting precincts or in the location of polling places; changes in the constituency of an official or the boundaries of a voting unit (e.g., through redistricting, annexation, incorporation, reapportionment, changing to at-large elections from district elections or to district elections from at-large elections), changing the length of term of an elective office or changing to staggered terms. If we had been covered by the preclearance requirement, we would have had to preclear every time we annexed. We would also have had to preclear when we changed the way the mayor is elected.

Although we are not covered by the preclearance requirement, it is still entirely possible to run afoul of the Voting Rights Act. Section 3 of the act (see Attachment D) describes the steps to be taken whenever the Attorney General or an aggrieved person institutes a proceeding to enforce the right to vote. Under this section, even a jurisdiction not subject to the preclearance requirement can be ordered by a court to preclear its voting changes.

For those jurisdictions that are required to obtain preclearance, the primary thing that the Attorney General looks for in making his determination is the potential for "retrogression" in the position of members of a racial or language minority group. In other words, he looks for evidence that the proposed change will make members of such a group worse off than they had been before. If he finds that the change is free of discriminatory purpose and retrogressive effect, he allows it to proceed. Some of the factors he considers are (1) the extent to which a reasonable and legitimate justification for the change exists, (2) the extent to which the jurisdiction followed objective guidelines and fair and conventional procedures in adopting the change, (3) the extent to which the jurisdiction afforded members of racial and language minority groups an opportunity to participate in the decision to make the change, and (4) the extent to which the jurisdiction took the concerns of members of racial and language minority groups into account in making the change.

When district lines are being redrawn, the factors to be considered include (1) the extent to which malapportioned districts deny or abridge the right to vote of minority citizens; (2) the extent to which minority voting strength is reduced by the proposed redistricting; (3) the extent to which minotiry concentrations are fragmented among different districts; (4) the extent to which minorities are overconcentrated in one or more districts; (5) the extent to which available alternative plans satisfying the jurisdiction's legitimate governmental interests were considered; (6) the extent to which the plan departs from objective redistricting criteria set by the submitting jurisdiction, ignores other relevant factors such as compactness and contiguity, or displays a configuration that inexplicably disregards available natural or artificial boundaries; and (7) the extent to which the plan is inconsistent with the jurisdiction's stated redistricting standards.

Additional factors that are considered in connection with changes to or from the use of at-large elections include (1) the extent to which minority voting strength is reduced by the proposed change, (2) the extent to which minority concentrations are submerged into larger electoral units, and (3) the extent to which available alternative systems satisfying the jurisdiction's legitimate governmental interests were considered.

Notes of Decisions

Indictment 2
Prosecution of violations 1

1. Prosecution of violations

The state authorities were the proper parties to continue the prosecution of officers of the United States, against whom a prosecution was commenced in a state court for an act done under the provisions of this section, and it was the duty of the attorneys of the United States to act as counsel for such defendants. Delaware v. Emerson, C.C.Del.1881, 8 F. 411.

2. Indictment

An indictment for unlawfully preventing certain citizens of African descent from registering or voting at a municipal election should charge that the acts were done on account of race, color, or previous condition of servitude. U. S. v. Petersburg Judges of Election, C.C.Va.1874, Fed.Cas.No.16,036.

SUBCHAPTER I—A—ENFORCEMENT OF VOTING RIGHTS

§ 1973. Denial or abridgement of right to vote on account of race or color through voting qualifications or prerequisites

No voting qualification or prerequisite to voting, or standard, practice, or procedure shall be imposed or applied by any State or political subdivision to deny or abridge the right of any citizen of the United States to vote on account of race or color, or in contravention of the guarantees set forth in section 1973b(f)(2) of this title.

Pub.L. 89-110, Title I, § 2, Aug. 6, 1965, 79 Stat. 437, redesignated Pub.L. 91-285, § 2, June 22, 1970, 84 Stat. 314, and amended Pub.L. 94-73, Title II, § 206, Aug. 6, 1975, 89 Stat. 402.

Historical Note

1975 Amendment. Pub.L. 94-73 substituted "race or color, or in contravention of the guarantees set forth in section 1973b(f)(2) of this title" for "race or color".

Short Title of 1970 Amendment. Pub.L. 91-285, § 1, June 22, 1970, 84 Stat. 314, provided: "That this Act [which designated existing provisions of Pub.L. 89-110 as subchapter I-A, enacted subchapters I-B and I-C of this chapter, and amended sections 1973b and 1973c of this title] may be cited as the 'Voting Rights Act Amendments of 1970'."

Short Title. Section 1 of Pub.L. 89-110 provided that: "This Act [which enacted subchapters I-A, I-B, and I-C of this chapter and amended section 1971 of this title] shall be known as the 'Voting Rights Act of 1965'."

Separability of Provisions. Section 208 of Pub.L. 94-73 provided that: "If any amendments made by this Act [enacting sections 1973aa-1a and 1973aa-5 of this title, amending sections 1973, 1973a to 1973d, 1973h, 1973i, 1973k, 1973l, 1973aa, 1973aa-2, 1973aa-3, 1973bb, 1973bb-1 of this title, and repealing sections 1973bb-2 to 1973bb-4 of this title] or the application of any provision thereof to any person or circumstance is judicially determined to be invalid, the remainder of the Voting Rights Act of 1965 [this subchapter and subchapters I-B and I-C of this chapter], or the application of such provision to other persons or circumstances shall not be affected by such determination."

Legislative History. For legislative history and purpose of Pub.L. 89-110, see 1965 U.S.Code Cong. and Adm.News, p. 2437. See, also, Pub.L. 94-73, 1975 U.S. Code Cong. and Adm.News, p. 774.

Library References

C.J.S. Elections § 8.

Elections ⇐12.

Notes of Decisions

Collateral attack 10
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Moot questions 9
Nature and scope of right to vote 5
Power of Congress 4
Prohibited practices 6
Purpose 2
Retroactive effect 3
Scope of right to vote 5

1. Constitutionality

Provisions of this subchapter were appropriate means for carrying out Congress' constitutional responsibilities under U.S.C.A.Const. Amend. 15 and were consonant with all other provisions of the Constitution. State of S. C. v. Katzenbach, S.C.1966, 86 S.Ct. 803, 383 U.S. 301, 15 L.Ed.2d 769.

This subchapter is not unconstitutional on basis that it exceeds power of Congress and encroaches on area reserved to states by Constitution. U. S. v. State of La., D.C.La.1966, 265 F.Supp. 703, affirmed 87 S.Ct. 1023, 386 U.S. 270, 18 L.Ed.2d 30.

2. Purpose

This subchapter was designed to implement U.S.C.A.Const. Amend. 15 and, in some respects, U.S.C.A.Const. Amend. 14. U. S. v. Boards of Com'rs of Sheffield, Ala., Ala.1978, 98 S.Ct. 965, 435 U.S. 110, 55 L.Ed.2d 148.

This subchapter was enacted to make guaranty of U.S.C.A.Const. Amend. 15, finally a reality for all citizens. Allen v. State Bd. of Elections, Miss. & Va.1969, 89 S.Ct. 817, 393 U.S. 544, 22 L.Ed.2d 1.

This subchapter was designed by Congress to banish racial discrimination in voting. State of S. C. v. Katzenbach, S. C.1966, 86 S.Ct. 803, 383 U.S. 301, 15 L.Ed. 2d 700.

Congress intended to forbid racial, color, and language minority discrimination in all of the myriad elections reached by this section. U. S. v. Uvalde Consol. Independent School Dist., C.A.Tex.1980, 625 F.2d 547, rehearing denied 629 F.2d 1350.

Congress intended to eradicate voting discrimination with all possible speed. Chinese For Affirmative Action v. Leguennec, C.A.Cal.1978, 580 F.2d 1006, certiorari denied 99 S.Ct. 1047, 439 U.S. 1129, 59 L.Ed.2d 90.

This subchapter was intended to implement U.S.C.A.Const. Amends. 5 and 14, and is constitutional. United Jewish Organizations of Williamsburgh, Inc v. Wilson, C.A.N.Y.1974, 510 F.2d 512, affirmed 97 S.Ct. 996, 430 U.S. 144, 51 L.Ed. 2d 229.

This subchapter was enacted to banish racial discrimination in voting and to implement U.S.C.A.Const. Amend. 15. Riddell v. National Democratic Party, C.A. Miss.1975, 508 F.2d 770.

Congress enacted this subchapter to give the widest possible protection to the franchise of American citizens. U. S. v. Lewis, D.C.Pa.1961, 614 F.Supp. 160.

In enacting this chapter, Congress intended that any state enactment which altered election law of covered state in even minor way would be subject to preclearance requirements of section 5 of Act. Horry County v. U. S., D.C.D.C. 1978, 449 F.Supp. 990.

This section does not give rise to a substantive cause of action, but simply sets forth the procedure and remedies available in a proceeding to enforce the guarantees of U.S.C.A.Const. Amend. 15. Webber v. White, D.C.Tex.1976, 422 F. Supp. 416.

This subchapter and U.S.C.A.Const. Amends. 14 and 15 are directed against racial discrimination, and, except for prohibition of specific devices, such as the literacy test, this subchapter does not purport to spell out the procedures to be employed in the conduct of "local" elections in the several states. Gremillion v. Rinaudo, D.C.La.1971, 325 F.Supp. 375.

Sense of Congress in enacting this subchapter was to assure not just voter registration but full exercise of the right to vote. U. S. v. State of Miss., D.C.Miss. 1966, 256 F.Supp. 344.

This subchapter was not designed to remedy deprivations of franchise in only one section of county but was devised to eliminate second-class citizenship wherev-

Attachment 3

ction 5 review. It is the prac
he Attorney General to review
jurisdiction's unprecleared an
ns together. See *City of Pleas*
ove v. *United States*, C.A. No
(D.D.C. Oct. 7, 1981).
elevant factors. In making de
tions with respect to annex
the Attorney General, in addi
the factors described above
nsider the following factors
others):
he extent to which a jurisdic
nnexations reflect the purpose
the effect of excluding minori
ile including other similarly sit
ersons.
he extent to which the annex
educe a jurisdiction's minority
ion percentage, either at the
the submission or, in view of
ended use, for the reasonably
able future.
hether the electoral system to
in the jurisdiction fails fairly
ct minority voting strength as
s in the post-annexation juris
See *City of Richmond* v.
States, 422 U.S. 358, 367-72

190, Jan. 6, 1987; 52 FR 2648, Jan

Subpart G—Sanctions

Enforcement by the Attorney Gen

he Attorney General is author
oring civil actions for appropri
ief against violations of the
rovisions, including section 5
ion 12(d).
ertain violations of section 5
subject to criminal sanctions
ion 12(a) and (c).

Enforcement by private parties.

e parties have standing to en
ction 5.

Bar to termination of coverage
out).

ction 4(a) of the Act sets out
nirements for the termination
age (bailout) under section 5
5. Among the requirements
out is compliance with sectio
scribed in section 4(a), during

the ten years preceding the filing of the bailout action and during its pendency.

(b) In defending bailout actions, the Attorney General will not consider as a bar to bailout under section 4(a)(1)(E) a section 5 objection to a submitted voting standard, practice, or procedure if the objection was subsequently withdrawn on the basis of a determination by the Attorney General that it had originally been interposed as a result of the Attorney General's misinterpretation of fact or mistake in the law, or if the unmodified voting standard, practice, or procedure that was the subject of the objection received Section 5 preclearance by means of a declaratory judgment from the U.S. District Court for the District of Columbia.

(c) Notice will be given to interested parties registered under § 51.32 when bailout actions are filed or decided.

Subpart H—Petition To Change Procedures

§ 51.65 Who may petition.

Any jurisdiction or interested individual or group may petition to have these procedural guidelines amended.

§ 51.66 Form of petition.

A petition under this subpart may be made by informal letter and shall state the name, address, and telephone number of the petitioner, the change requested, and the reasons for the change.

§ 51.67 Disposition of petition.

The Attorney General shall promptly consider and dispose of a petition under this subpart and give notice of the disposition, accompanied by a simple statement of the reasons, to the petitioner.

Appendix—Jurisdictions Covered Under Section 4(b) of the Voting Rights Act, as Amended

The preclearance requirement of section 5 of the Voting Rights Act, as amended, applies in the following jurisdictions. The applicable date is the date that was used to determine coverage and the date after which changes affecting voting are subject to the preclearance requirement.

Some jurisdictions, for example, Yuba County, California, are included more than once because they have been determined on more than one occasion to be covered under section 4(b).

Jurisdiction	Applicable Date	Federal Register citation	
		Volume and page	Date
Alabama	Nov. 1, 1964	30 FR 9897	Aug 7, 1965.
Alaska	Nov. 1, 1972	40 FR 49422	Oct. 22, 1975.
Arizona	Nov. 1, 1972	40 FR 43746	Sept. 23, 1975.
California:			
Kings County	Nov. 1, 1972	40 FR 43746	Sept. 23 1975
Merced County	Nov. 1, 1972	40 FR 43746	Sept. 23, 1975
Monterey County	Nov. 1, 1968	36 FR 5809	Mar. 27, 1971.
Yuba County	Nov. 1, 1968	36 FR 5809	Mar. 27, 1971.
Yuba County	Nov. 1, 1972	41 FR 784	Jan. 5, 1976.
Florida:			
Collier County	Nov. 1, 1972	41 FR 34329	Aug. 13, 1976.
Hardee County	Nov. 1, 1972	40 FR 43746	Sept. 23, 1975.
Hendry County	Nov. 1, 1972	41 FR 34329	Aug. 13, 1976.
Hillsborough County	Nov. 1, 1972	40 FR 43746	Sept. 23, 1975.
Monroe County	Nov. 1, 1972	40 FR 43746	Sept. 23, 1975.
Georgia	Nov 1, 1964	30 FR 9897	Aug. 7, 1965
Louisiana	Nov. 1, 1964	30 FR 9897	Aug 7, 1965
Michigan			
Allegan County			
Clyde Township	Nov 1 1972	41 FR 34329	Aug 13, 1976
Saginaw County:			
Buena Vista Township	Nov. 1, 1972	41 FR 34329	Aug 13, 1976
Mississippi	Nov. 1, 1964	30 FR 9897	Aug 7, 1965
New Hampshire			
Cheshire County			
Dublin Town	Nov 1 1968	39 FR 16912	May 10 1974

Jurisdiction	Applicable Date	Federal Register citation	
		Volume and page	Date
Coos County:	Nov. 1, 1968	39 FR 16912	May 10, 1974.
Millsfield Township	Nov. 1, 1968	39 FR 16912	May 10, 1974.
Pinkhams Grant	Nov. 1, 1968	39 FR 16912	May 10, 1974.
Stewartstown Town	Nov. 1, 1968	39 FR 16912	May 10, 1974.
Stratford Town			
Grafton County:	Nov. 1, 1968	39 FR 16912	May 10, 1974.
Benton Town			
Hillsborough County:	Nov. 1, 1968	39 FR 16912	May 10, 1974.
Antrim Town			
Merrimack County:	Nov. 1, 1968	39 FR 16912	May 10, 1974.
Boscawen Town			
Rockingham County:	Nov. 1, 1968	39 FR 16912	May 10, 1974.
Newington Town			
Sullivan County:	Nov. 1, 1968	39 FR 16912	May 10, 1974.
Unity Town			
New York:	Nov. 1, 1968	36 FR 5809	Mar. 27, 1971.
Bronx County	Nov. 1, 1972	40 FR 43746	Sept. 23, 1975
Bronx County	Nov. 1, 1968	36 FR 5809	Mar. 27, 1971.
Kings County	Nov. 1, 1972	40 FR 43746	Sept. 23, 1975
Kings County	Nov. 1, 1968	36 FR 5809	Mar. 27, 1971.
New York County			
North Carolina	Nov. 1, 1964	30 FR 9897	Aug. 7, 1965
Anson County	Nov. 1, 1964	31 FR 5081	Mar. 29, 1966
Beaufort County	Nov. 1, 1964	30 FR 9897	Aug. 7, 1965.
Bertie County	Nov. 1, 1964	31 FR 5081	Mar. 29, 1966
Bladen County	Nov. 1, 1964	31 FR 3317	Mar. 2, 1966.
Camden County	Nov 1, 1964	30 FR 9897	Aug. 7, 1965.
Caswell County	Nov. 1, 1964	30 FR 9897	Aug 7, 1965
Chowan County	Nov. 1, 1964	31 FR 5081	Mar. 29, 1966
Cleveland County	Nov. 1, 1964	30 FR 9897	Aug. 7, 1965.
Craven County	Nov. 1, 1964	30 FR 9897	Aug. 7, 1965.
Cumberland County	Nov. 1, 1964	30 FR 9897	Aug. 7, 1965.
Edgecombe County	Nov. 1, 1964	30 FR 9897	Aug. 7, 1965.
Franklin County	Nov. 1, 1964	31 FR 5081	Mar. 29, 1966.
Gaston County	Nov. 1, 1964	30 FR 9897	Aug. 7, 1965.
Gates County	Nov. 1, 1964	30 FR 9897	Aug. 7, 1965
Granville County	Nov. 1, 1964	30 FR 9897	Aug 7, 1965.
Greene County	Nov 1, 1964	31 FR 5081	Mar. 29, 1966
Guilford County	Nov. 1, 1964	30 FR 9897	Aug. 7, 1965
Halifax County	Nov. 1, 1964	31 FR 5081	Mar. 29, 1966
Harnett County	Nov. 1, 1964	30 FR 9897	Aug. 7, 1965.
Hertford County	Nov 1, 1964	30 FR 9897	Aug 7, 1965
Hoke County	Nov. 1, 1972	40 FR 49422	Oct. 22, 1975.
Jackson County	Nov 1, 1964	31 FR 5081	Mar 29, 1966.
Lee County	Nov. 1, 1964	30 FR 9897	Aug. 7, 1965.
Lenoir County	Nov. 1, 1964	31 FR 19	Jan. 4, 1966.
Martin County	Nov. 1, 1964	30 FR 9897	Aug. 7, 1965
Nash County	Nov 1, 1964	30 FR 9897	Aug 7, 1965
Northampton County	Nov. 1, 1964	30 FR 9897	Aug. 7, 1965.
Onslow County	Nov 1, 1964	30 FR 9897	Aug 7, 1965
Pasquotank County	Nov 1, 1964	31 FR 3317	Mar. 2, 1966
Perquimans County	Nov 1, 1964	30 FR 9897	Aug 7, 1965
Person County	Nov. 1, 1964	30 FR 9897	Aug 7, 1965
Pitt County	Nov. 1, 1964	30 FR 9897	Aug 7, 1965
Robeson County	Nov 1, 1964	31 FR 5081	Mar. 29, 1966
Rockingham County	Nov 1, 1964	30 FR 9897	Aug. 7, 1965
Scotland County	Nov 1, 1964	31 FR 5081	Mar. 29, 1966
Union County	Nov. 1, 1964	30 FR 9897	Aug 7, 1965
Vance County	Nov. 1, 1964	31 FR 19	Jan. 4, 1966
Washington County	Nov 1, 1964	30 FR 9897	Aug 7, 1965.
Wayne County	Nov. 1, 1964	30 FR 9897	Aug 7, 1965.
Wilson County	Nov 1, 1964	30 FR 9897	Aug 7, 1965.
South Carolina	Nov 1, 1972	41 FR 784	Jan 5, 1976.
South Dakota	Nov 1, 1972	41 FR 784	Jan 5, 1976
Shannon County	Nov 1, 1972	40 FR 43746	Sept 23 1975
Todd County	Nov 1, 1964	30 FR 9897	Aug 7, 1965
Texas			
Virginia			

The following political subdiv: ered individually:

Jurisdiction
Arizona:
Apache County
Apache County
Cochise County
Coconino County
Coconino County
Mohave County
Navajo County
Navajo County
Pima County
Pinal County
Pinal County
Santa Cruz County
Yuma County

PART 52—PROCEEDINGS BE MAGISTRATES

Sec.

52.01 Civil proceedings: Spec. pretrial, trial, appeal.

52.02 Criminal proceedings: Pre

§ 52.01 Civil proceedings: Spec pretrial, trial, appeal.

(a) Sections 636(b) and (c) govern pretrial and case- civil jurisdiction of magistrat as service by magistrates masters.

(1) With the consent of t a judge may designate a ma serve as special master in an without regard to the limi Rule 53(b), Federal Rules of cedure. 28 U.S.C. 636(b)(2). A quence, such referrals are n to the "exceptional circumst quirement of that Rule as i in *LaBuy v. Howes Leathe* U.S. 249 (1957). *See also M Weber*, 423 U.S. 261, 273–75 (

(2) A judge of the distr without the parties' consent. ignate a magistrate to hear mine civil pretrial matter before the court, except for classes of motions; as to the magistrate may conduct a h recommend a decision to th U.S.C. 636(b)(1)(A), (B).

(3) Upon the consent of t a magistrate may conduct

Applicable Date	Federal Register citation: Volume and page	Date
v. 1, 1968	39 FR 16912	May 10, 1974.
v. 1, 1968	39 FR 16912	May 10, 1974.
v. 1, 1968	39 FR 16912	May 10, 1974.
v. 1, 1968	39 FR 16912	May 10, 1974.
v. 1, 1968	39 FR 16912	May 10, 1974.
v. 1, 1968	39 FR 16912	May 10, 1974.
1, 1968	39 FR 16912	May 10, 1974.
1, 1968	39 FR 16912	May 10, 1974.
1, 1968	39 FR 16912	May 10, 1974.
1, 1968	36 FR 5809	Mar. 27, 1971.
1, 1972	40 FR 43746	Sept. 23, 1975.
1, 1968	36 FR 5809	Mar. 27, 1971.
1, 1972	40 FR 43746	Sept. 23, 1975.
1, 1968	36 FR 5809	Mar. 27, 1971.
1, 1964	30 FR 9897	Aug. 7, 1965.
1, 1964	31 FR 5081	Mar. 29, 1966.
1, 1964	30 FR 9897	Aug. 7, 1965.
1, 1964	31 FR 5081	Mar. 29, 1966.
1, 1964	31 FR 3317	Mar. 2, 1966.
1, 1964	30 FR 9897	Aug. 7, 1965.
1, 1964	30 FR 9897	Aug. 7, 1965.
1, 1964	31 FR 5081	Mar. 29, 1966.
1, 1964	30 FR 9897	Aug. 7, 1965.
1, 1964	30 FR 9897	Aug. 7, 1965.
1, 1964	30 FR 9897	Aug. 7, 1965.
1, 1964	30 FR 9897	Aug. 7, 1965.
1, 1964	31 FR 5081	Mar. 29, 1966.
1, 1964	30 FR 9897	Aug. 7, 1965.
1, 1964	30 FR 9897	Aug. 7, 1965.
1, 1964	30 FR 9897	Aug. 7, 1965.
1, 1964	31 FR 5081	Mar. 29, 1966.
1, 1964	30 FR 9897	Aug. 7, 1965.
1, 1964	31 FR 5081	Mar. 29, 1966.
1, 1964	30 FR 9897	Aug. 7, 1965.
1, 1964	30 FR 9897	Aug. 7, 1965.
1, 1972	40 FR 49422	Oct. 22, 1975.
1, 1964	31 FR 5081	Mar. 29, 1966.
1, 1964	30 FR 9897	Aug. 7, 1965.
1, 1964	31 FR 19	Jan. 4, 1966.
1, 1964	30 FR 9897	Aug. 7, 1965.
1, 1964	30 FR 9897	Aug. 7, 1965
1, 1964	30 FR 9897	Aug. 7, 1965.
1, 1964	30 FR 9897	Aug. 7, 1965.
1, 1964	31 FR 3317	Mar. 2, 1966.
1, 1964	30 FR 9897	Aug. 7, 1965
1, 1964	30 FR 9897	Aug. 7, 1965.
1, 1964	30 FR 9897	Aug. 7, 1965.
1, 1964	31 FR 5081	Mar. 29, 1966.
1, 1964	30 FR 9897	Aug. 7, 1965.
1, 1964	31 FR 5081	Mar. 29, 1966
1, 1964	30 FR 9897	Aug. 7, 1965
1, 1964	31 FR 19	Jan. 4, 1966.
1, 1964	30 FR 9897	Aug. 7, 1965.
1, 1964	30 FR 9897	Aug. 7, 1965.
1, 1964	30 FR 9897	Aug. 7, 1965
1, 1972	41 FR 784	Jan. 5, 1976.
1, 1972	41 FR 784	Jan. 5, 1976.
1, 1972	40 FR 43746	Sept. 23, 1975.
1, 1964	30 FR 9897	Aug. 7, 1965.

The following political subdivisions in States subject to statewide coverage are also covered individually:

Jurisdiction	Applicable date	Federal Register citation: Volume and page	Date
Arizona:			
Apache County	Nov. 1, 1968	36 FR 5809	Mar. 27, 1971.
Apache County	Nov. 1, 1972	40 FR 49422	Oct. 22, 1975.
Cochise County	Nov. 1, 1968	36 FR 5809	Mar. 27, 1971.
Coconino County	Nov. 1, 1968	36 FR 5809	Mar. 27, 1971.
Coconino County	Nov. 1, 1972	40 FR 49422	Oct. 22, 1975.
Mohave County	Nov. 1, 1968	36 FR 5809	Mar. 27, 1971.
Navajo County	Nov. 1, 1968	36 FR 5809	Mar. 27, 1971.
Navajo County	Nov. 1, 1972	40 FR 49422	Oct. 22, 1975.
Pima County	Nov. 1, 1968	36 FR 5809	Mar. 27, 1971.
Pinal County	Nov 1, 1968	36 FR 5809	Mar. 27, 1971.
Pinal County	Nov. 1, 1972	40 FR 49422	Oct. 22, 1975.
Santa Cruz County	Nov 1, 1968	36 FR 5809	Mar. 27, 1971.
Yuma County	Nov. 1, 1964	31 FR 982	Jan. 25, 1966.

PART 52—PROCEEDINGS BEFORE U.S. MAGISTRATES

Sec.

52.01 Civil proceedings: Special master, pretrial, trial, appeal.
52.02 Criminal proceedings: Pretrial, trial.

§ 52.01 Civil proceedings: Special master, pretrial, trial, appeal.

(a) Sections 636(b) and (c) of Title 28 govern pretrial and case-dispositive civil jurisdiction of magistrates, as well as service by magistrates as special masters.

(1) With the consent of the parties, a judge may designate a magistrate to serve as special master in any civil case without regard to the limitations of Rule 53(b), Federal Rules of Civil Procedure. 28 U.S.C. 636(b)(2). As a consequence, such referrals are not subject to the "exceptional circumstances" requirement of that Rule as interpreted in *LaBuy v. Howes Leather Co.*, 352 U.S. 249 (1957). *See also Mathews v. Weber*, 423 U.S. 261, 273-75 (1976).

(2) A judge of the district court, without the parties' consent, may designate a magistrate to hear and determine civil pretrial matters pending before the court, except for six named classes of motions; as to the latter, the magistrate may conduct a hearing and recommend a decision to the judge. 28 U.S.C. 636(b)(1)(A), (B).

(3) Upon the consent of the parties, a magistrate may conduct any or all proceedings in a jury or non-jury civil matter and order the entry of judgment in the case, when specially designated to exercise such jurisdiction by the court. 28 U.S.C. 636(c)(1). A part-time magistrate, who does not serve as full-time judicial officer by virtue of bankruptcy or other duties, may exercise this jurisdiction only if the parties specifically so request in writing; if the five-year bar membership requirement of 28 U.S.C. 631(b)(1) is satisfied; and if the chief judge of the district "certifies that a full-time magistrate is not reasonably available in accordance with guidelines established by the judicial council of the circuit." 28 U.S.C. 636(c)(1). A full- or part-time magistrate not appointed under merit selection standards and procedures, 28 U.S.C. 631(b)(5), must be "certified as qualified to exercise the Act's jurisdiction by the judicial council of the circuit in which the magistrate serves." Pub. L. 96-82, 3(f), 93 Stat. 645.

(4) At the time of the reference to a magistrate described in paragraph (a)(3) of this section, the parties may also consent to the taking of any appeal to the district court rather than to the court of appeals. 28 U.S.C. 636(c)(3), (4). In such a circumstance, further review may be had in the court of appeals upon a petition for leave to appeal. 28 U.S.C. 636(c)(5). Review by the court of appeals is not limited to petitions presenting "important" questions of law. H.R. Rep. No.

Note 30

light of Congress' intention to eradicate the blight of voting discrimination with all possible speed. Briscoe v. Bell, Dist. Col.1977, 97 S.Ct. 2428, 432 U.S. 404, 53 L.Ed. 2d 439.

The words "any appeal," within subsec. (a) of this section relating to action by State or political subdivision for declaratory judgment as to absence of denial or abridgment of voting rights on account of race or color and providing that action shall be heard and determined by a court of three judges and appeal shall lie to the Supreme Court, encompass appeal by a would-be, but unsuccessful, intervenor. National Ass'n. for the Advancement of Colored People v. New York, Dist.Col.1973, 93 S.Ct. 2591, 413 U.S. 345, 37 L.Ed.2d 648.

Provision of this section barring direct judicial review of findings by Attorney General and Director of Census which trigger application of coverage formula was not invalid on theory that it allowed new remedies to be imposed in arbitrary way since such findings consisted of objective statistical determinations by Census Bureau and routine analysis of state statutes by Justice Department, neither of which was likely to arouse any plausible dispute, and since affected area could in any event seek termination of coverage if it could prove it had not been guilty of voting discrimination in recent years. State of S. C. v. Katzenbach, S.C. 1966, 86 S.Ct. 803, 383 U.S. 301, 15 L.Ed.2d 769.

31. Remand

In prospective voters action against city board of elections seeking a judicial determination that state English literacy requirement, as applied to deny her the right to vote in all elections, violated the federal Constitution, where complaint did not allege that prospective voter had successfully completed the sixth grade of a public school in, or a private school accredited by, the Commonwealth of Puerto Rico, as required by this section, judgment denying relief should be vacated and cause remanded for further proceedings. Cardona v. Power, N.Y.1966, 86 S. Ct. 1728, 384 U.S. 672, 16 L.Ed.2d 848.

§ 1973c. Alteration of voting qualifications and procedures; action by State or political subdivision for declaratory judgment of no denial or abridgement of voting rights; three-judge district court; appeal to Supreme Court

Whenever a State or political subdivision with respect to which the prohibitions set forth in section 1973b(a) of this title based upon determinations made under the first sentence of section 1973b(b) of this title are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1964, or whenever a State or political subdivision with respect to which the prohibitions set forth in section 1973b(a) of this title based upon determinations made under the second sentence of section 1973b(b) of this title are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1968, or whenever a State or political subdivision with respect to which the prohibitions set forth in section 1973b(a) of this title based upon determinations made under the third sentence of section 1973b(b) of this title are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on

November 1, 1972, such State or subdivision may institute an action in the United States District Court for the District of Columbia for a declaratory judgment that such qualification, prerequisite, standard, practice, or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color, or in contravention of the guarantees set forth in section 1973b(f)(2) of this title, and unless and until the court enters such judgment no person shall be denied the right to vote for failure to comply with such qualification, prerequisite, standard, practice, or procedure: *Provided*, That such qualification, prerequisite, standard, practice, or procedure may be enforced without such proceeding if the qualification, prerequisite, standard, practice, or procedure has been submitted by the chief legal officer or other appropriate official of such State or subdivision to the Attorney General and the Attorney General has not interposed an objection within sixty days after such submission, or upon good cause shown, to facilitate an expedited approval within sixty days after such submission, the Attorney General has affirmatively indicated that such objection will not be made. Neither an affirmative indication by the Attorney General that no objection will be made, nor the Attorney General's failure to object, nor a declaratory judgment entered under this section shall bar a subsequent action to enjoin enforcement of such qualification, prerequisite, standard, practice, or procedure. In the event the Attorney General affirmatively indicates that no objection will be made within the sixty-day period following receipt of a submission, the Attorney General may reserve the right to reexamine the submission if additional information comes to his attention during the remainder of the sixty-day period which would otherwise require objection in accordance with this section. Any action under this section shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of Title 28 and any appeal shall lie to the Supreme Court.

Pub.L. 89–110, Title I, § 5, Aug. 6, 1965, 79 Stat. 439, redesignated and amended Pub.L. 91–285, §§ 2, 5, June 22, 1970, 84 Stat. 314, 315, Pub.L. 94–73, Title II, §§ 204, 206, Title IV, § 405, Aug. 6, 1975, 89 Stat. 402, 405.

Historical Note

1975 Amendment. Pub.L. 94–73 inserted "or whenever a State or political subdivision with respect to which the prohibitions set forth in section 1973b(a) of this title based upon determinations made under the third sentence of section 1973b(b) of this title are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1972," after 1968, substituted "or upon good cause shown, to facilitate an expedited approval within sixty days after such submission, the Attorney General has affirmatively indicated that such objection will not be made. Neither an affirmative indication by the Attorney General that no objection will be made, nor the Attorney General's failure to object," for "except that neither the Attorney General's failure to object" and "on account of race or color, or in contravention of the guarantees set forth in section 1973b(f)(2) of this title," for "on account of race or color", and

er present. U. S. v. County Bd. of Elections of Monroe County, New York, D.C. N.Y.1965, 248 F.Supp. 316, appeal dismissed 86 S.Ct. 1077, 383 U.S. 575, 16 L. Ed.2d 107

3. Retroactive effect

This subchapter was applied in Mississippi Negro voter registration case which had its inception prior to its passage. U. S. v. Ramsey, C.A.Miss.1965, 353 F.2d 650.

4. Power of Congress

Whatever legislation is appropriate, that is, adapted to carry out the objects U.S.C.A.Const. Amends. 14 and 15 have in view, whatever tends to enforce submission to the prohibitions they contain, and to secure to all persons the enjoyment of perfect equality of civil rights and the equal protection of the laws against state denial or invasion, if not prohibited, is brought within the domain of congressional power. State of S. C. v. Katzenbach, S.C.1966, 86 S.Ct. 803, 383 U.S. 301, 15 L.Ed.2d 769

Congress was authorized under U.S.C.A.Const. Amend. 14 to amend this section so as to prohibit purposefully discriminatory maintenance of vote-diluting at-large districting scheme. U. S. v. Uvalde Consol. Independent School Dist., C.A.Tex. 1980, 625 F.2d 547, rehearing denied 629 F.2d 1350.

5 Nature and scope of right to vote

At-large electoral system in Mobile, Alabama, does not violate the rights of the city's Negro voters in contravention of the U.S.C.A.Const. Amend. 15, since Negroes in Mobile register and vote without hindrance and their freedom to vote has not been denied or abridged by anyone. (Per Mr. Justice Stewart with three Justices joining, one Justice concurring in result, and one Justice concurring in the judgment.) City of Mobile, Ala. v. Bolden, Ala.1980, 100 S.Ct. 1490, 446 U.S. 55, 64 L.Ed.2d 47, on remand 626 F.2d 1324.

This subchapter gives broad interpretation to right to vote, recognizing that voting includes all action necessary to make a vote effective. Allen v. State Bd. of Elections, Miss. & Va.1969, 89 S.Ct. 817, 393 U.S. 544, 22 L.Ed.2d 1.

No group, whether racially or ethnically identifiable, has a right to elect representatives proportionate to its voting power in community. Lodge v. Buxton, C.A.Ga.1981, 639 F.2d 1358.

The "right to vote" as contained in this subchapter is not merely the right to gain physical access to a voting booth. Arroyo v. Tucker, D.C.Pa.1974, 372 F. Supp. 764.

6. Prohibited practices

Bloc voting is not illegal, but inquiry into voting patterns is relevant, and plaintiff would be hard pressed to prove that system was being maintained for invidious purposes, without proof of bloc voting. Lodge v. Buxton, C.A.Ga.1981, 639 F.2d 1358.

Record sustained district court's finding that acts and omissions by registrar in period immediately preceding Democratic primary constituted a violation of U.S.C.A.Const. Amend. 15 and this subchapter. Toney v. White, C.A.La.1973, 476 F.2d 203, modified on other grounds and affirmed 488 F.2d 310.

School board's revised leave policy for teachers, adopted to clarify internal administrative matters, was not a constraint on employee political activity affecting voter choice within this chapter. Jordan v. Cagle, D.C.Miss.1979, 474 F. Supp. 1198, affirmed 620 F.2d 298.

Allegations that at-large voting system served to dilute or cancel black voting strength amounted to actionable claim under this section. Clark v. Marengo County, D.C.Ala.1979, 480 F.Supp. 1150.

Philadelphia's English-only election system constitutes a condition on the right to vote of residents born in Puerto Rico and who neither read, write, speak nor comprehend English, and Philadelphia county commissioners and secretary of Commonwealth would be ordered to implement bilingual electoral process. Arroyo v. Tucker, D.C.Pa.1974, 372 F. Supp. 764.

Practices employed by school board and election board in conduct of school board election, including facts that polls did not open on time, that parent materials and bilingual materials arrived late or not at all, that documentary identification requirement was employed at polls serving minority voters almost exclusively, and that inspectors and interpreters were inadequately prepared, resulted in election being conducted in manner which denied minority voters equal protection of law. Coalition for Ed. in Dist. One v. Board of Elections of City of New York, D.C.N.Y.1974, 370 F.Supp. 42, affirmed 495 F.2d 1090.

That certain statements, which pertained to special election on proposed state constitution and three other constitutional provisions, had, in good faith, erroneously interpreted ambiguous state constitutional provision as indicating that constitution could not be ratified unless approved by majority of electors voting at election, did not, with regard to such election in which 237,000 electors voted and in which 116,416 voted for constitution and 113,883 voted against it, deny right to vote in violation of U.S.C.A. Const. Amend. 14, U.S.C.A.Const. art. 4, § 4, or this subchapter. Burger v. Judge, D.C.Mont.1973, 364 F.Supp. 504, affirmed 94 S.Ct. 563, 414 U.S. 1058, 38 L.Ed.2d 465.

This subchapter prohibits any practice or procedure which either by design or effect operates to deny or impair the right to vote in any election, federal or state, solely because of an otherwise qualified elector's "race, color, or previous condition of servitude." Gremillion v. Rinaudo, D.C.La.1971, 325 F.Supp. 375.

Application of this section is limited to cases of racial discrimination. Powell v. Power, D.C.N.Y.1970, 320 F.Supp. 618, affirmed 436 F.2d 84.

7. Jurisdiction

Any cause of action based on this section which prohibits imposition or application of voting qualifications or prerequisites to deny or abridge right to vote on account of race or color is to be heard by regular district court of one judge. Webber v. White, D.C.Tex.1976, 422 F.Supp. 416.

8. Complaint

Complaint brought by Attorney General under this subchapter alleging that at-large system of electing representatives to local school board was implemented with intent and purpose of causing irreparable injury to Mexican-American voters by effectively and purposefully precluding them from meaningful access to the political process stated cause of action under this subchapter. U. S. v. Uvalde Consol. Independent School Dist., C.A. Tex.1980, 625 F.2d 547, rehearing denied 629 F.2d 1350.

Mere recitation that plaintiff is black does not, in any ordinary case, suffice to raise the issue of racial prejudice, and in action brought by one candidate under this section, such pleading was entirely irrelevant to issue of racial prejudice where both candidates were black and district in which they were running was predominantly black. Webber v. White D.C.Tex.1976, 422 F.Supp. 416

9. Moot questions

While dispute over 1975 city elections was now moot, sufficiency of city's current compliance with this subchapter is or might be a live, justiciable controversy capable of repetition, yet evading review, and only trial court could answer relevant questions to determine whether case was now moot or about to become moot. Chinese For Affirmative Action v. Leguennec, C.A.Cal.1978, 580 F.2d 1006, certiorari denied 99 S.Ct. 1047, 439 U.S. 1129, 59 L.Ed.2d 90.

10. Collateral attack

Private litigants can collaterally attack a state court decision on voting procedure through this section, though there may be a question of whether the issues involved were substantially raised in the state court proceedings so as to collaterally estop or act as res judicata on the second lawsuit. Webber v. White, D.C. Tex.1976, 422 F.Supp. 416

11. Conflicting proceedings

Where order convening three judge court expressly stated that issues committed to that court were to be limited to challenge under this chapter to certain election and such case did not cover any other cause of matter involved in extensive proceedings in which city school district and interim board of trustees of proposed independent school district were parties, there was no conflict between three-judge court proceedings and present desegregation action. Ross v. Houston Independent School Dist., C.A. Tex.1977, 559 F.2d 937, on remand 457 F. Supp. 18.

§ 1973a. Proceeding to enforce right to vote

Authorization by court for appointment of federal examiners

(a) Whenever the Attorney General or an aggrieved person institutes a proceeding under any statute to enforce the voting guarantees of the fourteenth or fifteenth amendment in any State or political subdivision the court shall authorize the appointment of Federal examiners by the Director of the Office of Personnel Management

in accordance with section 1973d of this title to serve for such period of time and for such political subdivisions as the court shall determine is appropriate to enforce the voting guarantees of the fourteenth or fifteenth amendment (1) as part of any interlocutory order if the court determines that the appointment of such examiners is necessary to enforce such voting guarantees or (2) as part of any final judgment if the court finds that violations of the fourteenth or fifteenth amendment justifying equitable relief have occurred in such State or subdivision: *Provided*, That the court need not authorize the appointment of examiners if any incidents of denial or abridgement of the right to vote on account of race or color, or in contravention of the voting guarantees set forth in section 1973b(f)(2) of this title (1) have been few in number and have been promptly and effectively corrected by State or local action, (2) the continuing effect of such incidents has been eliminated, and (3) there is no reasonable probability of their recurrence in the future.

Suspension of use of tests and devices which deny or abridge right to vote

(b) If in a proceeding instituted by the Attorney General or an aggrieved person under any statute to enforce the voting guarantees of the fourteenth or fifteenth amendment in any State or political subdivision the court finds that a test or device has been used for the purpose or with the effect of denying or abridging the right of any citizen of the United States to vote on account of race or color, or in contravention of the voting guarantees set forth in section 1973b(f)(2) of this title, it shall suspend the use of tests and devices in such State or political subdivisions as the court shall determine is appropriate and for such period as it deems necessary.

Retention of jurisdiction to prevent commencement of new devices to deny or abridge right to vote

(c) If in any proceeding instituted by the Attorney General or an aggrieved person under any statute to enforce the voting guarantees of the fourteenth or fifteenth amendment in any State or political subdivision the court finds that violations of the fourteenth or fifteenth amendment justifying equitable relief have occurred within the territory of such State or political subdivision, the court, in addition to such relief as it may grant, shall retain jurisdiction for such period as it may deem appropriate and during such period no voting qualification or prerequisite to voting or standard, practice, or procedure with respect to voting different from that in force or effect at the time the proceeding was commenced shall be enforced unless and until the court finds that such qualification, prerequisite, standard, practice, or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color, or in contravention of the voting guarantees set forth in section 1973b(f)(2) of this title: *Provided*, That

such qualification, prerequisite, standard, practice, or procedure may be enforced if the qualification, prerequisite, standard, practice, or procedure has been submitted by the chief legal officer or other appropriate official of such State or subdivision to the Attorney General and the Attorney General has not interposed an objection within sixty days after such submission, except that neither the court's finding nor the Attorney General's failure to object shall bar a subsequent action to enjoin enforcement of such qualification, prerequisite, standard, practice, or procedure.

Pub.L. 89-110, Title I, § 3, Aug. 6, 1965, 79 Stat. 437, redesignated Pub.L. 91-285, § 2, June 22, 1970, 84 Stat. 314, and amended Pub.L. 94-73, Title II, §§ 205, 206, Title IV, §§ 401, 410, Aug. 6, 1975, 89 Stat. 402, 404, 406; 1978 Reorg. Plan No. 2 § 102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783.

Historical Note

1975 Amendment. Subsec. (a). Pub.L. 94-73 added reference to the fourteenth amendment in three places, and substituted "voting guarantees" for "guarantees" in three places, "Attorney General or an aggrieved person" for "Attorney General", and "on account of race or color or in contravention of the voting guarantees set forth in section 1973b(f)(2) of this title" for "on account of race or color".

Subsec. (b). Pub.L. 94-73 substituted "Attorney General or an aggrieved person under any statute to enforce the voting guarantees of the fourteenth or fifteenth amendment" for "Attorney General under any statute to enforce the guarantees of the fifteenth amendment", and "on account of race or color, or in contravention of the voting guarantees set forth in section 1973b(f)(2) of this title" for "on account of race or color".

Subsec. (c). Pub.L. 94-73 substituted "Attorney General or an aggrieved person under any statute to enforce the voting guarantees of the fourteenth or fifteenth amendment in any State or political subdivision the court finds that violation of the fourteenth or fifteenth amendment" for "Attorney General under any statute to enforce the guarantees of the fifteenth amendment in any State or political subdivision the court finds that violations of the fifteenth amendment" and "on account of race or color, or in contravention of the voting guarantees set forth in section 1973b(f)(2) of this title" for "on account of race or color".

Transfer of Functions. "Director of the Office of Personnel Management" was substituted for "United States Civil Service Commission" in subsec. (a) pursuant to Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred all functions vested by statute in the United States Civil Service Commission to the Director of the Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1-102 of Ex.Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

Legislative History. For legislative history and purpose of Pub.L. 89-110, see 1965 U.S.Code Cong. and Adm.News, p. 2437. See, also, Pub.L. 94-73, 1975 U.S. Code Cong. and Adm.News, p. 774.

Library References

Courts ⇐508(2). C.J.S. Courts § 543.

Notes of Decisions

Appointment of examiners 2
Constitutionality 1
State injunction against federal examiners 3

1. Constitutionality

Opinion of Supreme Court of Alabama that this subchapter was in conflict with Constitution of the United States and

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Councilman Martin moved for the adoption of Ordinance No. 1781. This motion was seconded by Vice-Mayor Michalove.

On a roll call vote of 7-0, Ordinance No. 1781 passed on first reading.

It was noted that the ordinances would not be effective until they are voted upon by the citizens.

B. **Ordinance No. 1779 - Second reading of an ordinance amending Chapter 25 (Streets and Sidewalks) of the Code of Ordinances of the City of Asheville regarding group demonstrations.**

Mayor Bissette said this amendment will allow group demonstrations during daylight hours for as long as a month without paying the additional administrative fee so long as there are five or fewer individuals involved. For parades or demonstrations in excess of five persons, a separate fee would still be required each day.

At the request of the City Attorney, Councilman Price moved to amend Ordinance No. 1779 by adding a provision to the ordinance, for clarification, for the revocation of permits. This motion was seconded by Councilman Frank and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1779 passed on second reading.

C. **Resolution No. 89-125 - Resolution authorizing the Mayor to execute on behalf of the City of Asheville a lease to Wall Street Limited Partnership.**

Mayor Bissette said the City of Asheville has received an offer from Wall Street Limited Partnership to lease 4,880 net leasable square feet of commercial retail space in the Wall Street Parking Garage. The offer to lease the property is made upon certain terms and conditions included in the lease.

After discussion, Councilman York moved for the adoption of Resolution No. 89-125 with the provision that the lease state that space shall be used as retail space or any alternate use as approved in writing by the City Manager or his designee. This motion was seconded by Councilman Martin and carried unanimously.

IV. NEW BUSINESS:

A. Resolution No. 89-126 - Resolution authorizing the City Manager to execute on behalf of the City of Asheville a contract with DAP Security, Inc. for School Crossing Guards.

Mayor Bissette said due to the significant negative impact on police services, it will be more cost effective and productive to contract all school crossing guard positions to private security.

Upon motion of Councilman Frank, seconded by Vice-Mayor Michalove, Resolution No. 89-126 was unanimously adopted.

Resolution Book No. 17 Page No. 482

B. Scheduling of public hearing relative to rezoning property located at #1 St. Dunstan's Road for Mr. Michael Tavener for August 29, 1989.

At the request of Mayor Bissette, Councilman Price moved to excuse Mayor Bissette from vote and participation in the rezoning matter involving Mr. Michael Tavener at today's meeting as well as at any time when further consideration is given to Mr. Tavener's rezoning request. This motion was seconded by Councilman York and carried unanimously.

Vice-Mayor Michalove said the Asheville Planning and Zoning Commission on August 2, 1989, reviewed and recommended approval of rezoning Ward 4, Sheet 13, Lot 8, from R-3 Residential District to OI Office-Institutional District.

Councilman Price moved to schedule a public hearing relative to rezoning property located at #1 St. Dunstan's Road for Mr. Michael Tavener for August 29, 1989. This motion was seconded by Councilman Martin and carried unanimously.

V. CONSENT:

VI. OTHER BUSINESS:

A. ANNOUNCEMENT - COUNCIL MEETING - AUGUST 22, 1989 - TO BE HELD IN THE VILLAGE HALL AT THE SKYLAND FIRE DEPARTMENT.

Mayor Bissette announced that the Council meeting scheduled for August 22, 1989 will be held in the Village Hall at the Skyland Fire Department.

B. MAYORAL AND COUNCIL CANDIDATES - INFORMATION PACKAGE

The City Manager said the City staff is preparing an information package for all Mayoral and Council candidates. He said he, as well as department heads, would be meeting with all the candidates to make information available to them.

C. MINORITY AND WOMEN TASK FORCE

Councilman Frank said the Minority and Women Task Force is still seeking more minority business people to be on the Task Force to come up with recommendations to present to members of Council.

D. UNITED WAY CHALLENGE WITH COUNTY EMPLOYEES

The City Manager said he offered a challenge to the County Manager for a dinner at the Market Place for two for the person whose employees win in upcoming United Way Campaign. He said to kick this challenge off, John Miall with the City's Management Services Department, attended the County Commissioner's meeting and presented pledge cards to the County Commissioners.

John Miall then presented each member of Council a United Way pledge card to start the City employee's challenge.

CLAIMS - VIRGINIA KOLB (SANITATION) - JACK KING (CIVIC CENTER) - RONNIE MERRILL (WATER)

The City Manager presented claims received from Virginia Kolb, Jack King, and Ronnie Merrill.

Mayor Bissette referred the claims to the Corporation Counsel for investigation and recommendation.

RALPH BISHOP - LOTTERY SALES IN THE CITY

Ralph Bishop again spoke to members of Council relative to lottery sales in the City of Asheville.

JOHNNY WALSH - REQUEST FOR INFORMATION RELATIVE TO FEE CHARGED FOR GROUP DEMONSTRATIONS

Johnny Walsh requested a copy of the North Carolina General Statutes that allows the City to charge a fee for free exercise of speech such as is charged in the Group Demonstration ordinance.

VII. ADJOURNMENT

Mayor Bissette adjourned the meeting at 6:00 p.m.

MAYOR

CITY CLERK

Tuesday - August 22, 1989 - 4:00 P.M.

VILLAGE HALL - SKYLAND FIRE DEPARTMENT

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell Martin and A. Robert York; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Councilman Martin.

APPROVAL OF MINUTES

Mayor Bissette announced the approval of the minutes of the August 15, 1989 meeting as submitted.

GOOMBAY FESTIVAL - AUGUST 25 - 16, 1989

Mayor Bissette encouraged everyone to participate in the "Goombay Festival" in downtown on August 25 - 26, 1989.

TROLLEY CARS

Mayor Bissette said the Asheville trolley cars would be arriving in Asheville this week and a special formal "welcome" would be held Wednesday afternoon at 6:00 p.m. He said the cars would be refurbished and prominently placed in the City.

I. PROCLAMATIONS:

A. Proclamation - "Statehood Day- Postal Service" - August 23, 1989.

Mayor Bissette read the proclamation and presented a copy of Bob Herron with the Asheville Post Office.

Mr. Herron highlighted the events taking place to commemorate the issuance of the North Carolina Bicentennial Statehood Stamp.

II. PUBLIC HEARINGS:

A. Public hearing relative to minority businesses.

Mayor Bissette said Senate Bill 308, adopted effective June 28, 1989, required any construction project in excess of $100,000 to include minority participation provisions based upon guidelines adopted by the City specifying the actions that will be taken to ensure a good faith effort in the recruitment and selection of minority businesses. As enacted on June 28, the law applied immediately and would therefore require a public hearing and the adoption of such guidelines prior to the execution of any such contract by the City. Following the publication of the notice of public hearing with regard to this matter, the legislature amended the law to provide additional time within which to establish the guidelines. This delay in the time within which the guidelines must be established will hopefully allow the minority and women owned business committee to complete its recommendation before the adoption of the guidelines by the City Council. It is therefore recommended that Council take no action at this time, with further consideration to be given later this year, following receipt of recommendations from the committee.

III. OLD BUSINESS:

A. Ordinance No. 1780 - Second reading of an ordinance amending the City Charter of the City of Asheville pursuant to North Carolina General Statute Sec. 160A-102 to provide for election of the Asheville City Council by the nonpartisan election and runoff election method as set forth in North Carolina General Statute Sec. 163-293.

Mayor Bissette said the City Council intends to consider an ordinance amending the Charter of the City of Asheville to provide for municipal elections within the City of Asheville to be conducted by nonpartisan election and runoff election as provided in N.C. Gen. Stat. sec. 163-293. This ordinance passed on first reading on August 15, 1989.

B. Ordinance No. 1781 - Second reading of an ordinance amending the City Charter of the City of Asheville pursuant to North Carolina General Statute Sec. 160A-102 to provide for election of members of City Council by district as authorized by North Carolina General Statute Section 160A-101(6)c.

Mayor Bissette said the Council intends to consider an ordinance amending the Charter to provide for municipal elections with the City of Asheville to be conducted by district as authorized by N. C. Gen. Stat. sec. 160A-1-1 (6) c. This ordinance passed on first reading on August 15, 1989.

Councilman Frank said after hearing input from the citizens she now feels there is mass confusion about district representation and everyone needs to be more educated about nonpartisan elections and district representation before the issue is put on the ballot. She said she is in favor of establishing a study commission on these issues. She said for these reasons she would be voting against the ordinances.

The following individuals appeared before Council stating they also felt there is mass confusion about district representation and the issue should have further research:

Joe Webster, Asheville Chapter NAACP
Clarence Benton
Liddy Sidnick - 90 Gertrude Place
Hazel Fobes - League of Women Voters

The following individuals appeared before Council in favor of pure district representation and opposing the proposal outlined by Council for four members of Council to be elected by district and two at-large members. They also spoke relative to a petition being circulated in the community which has been filed with the Board of Elections which could require a vote of the people on pure district representation if the petition contains the sufficient number of signatures:

Rev. Lynwood Leverette
Roseleen Fetty
George Tisdale - 65 Shorewood Drive
John Walsh - 26 Ivy Street

Members of Council expressed concern that they are being pressured into taking action on nonpartisan elections and district representation when they also feel the issues need further study. They said if they do not take action on what they feel is the best alternative the petition being circulated, which has not been formally presented, could force a vote on the issues on the November ballot. They indicated that election of six district representatives and an at-large mayor could dilute minority voting strength that has remained stable for many years and divide neighborhoods.

Members of Council urged the organizer of the petition to take some legal action to suspend the petition allowing Council to withdraw their counterproposal and agree to form a commission to examine alternative forms of elections. They said this action could be taken prior to the third reading of the ordinances.

On a roll call vote of 6-1, Ordinance No. 1780 passed on second reading with Councilman Frank voting "no".

On a roll call vote of 6-1, Ordinance No. 1781 passed on second reading with Councilman Frank voting "no".

OAK FOREST HOMEOWNER'S ASSOCIATION - COMMENTS

Harris Leonard, President of the Oak Forest Homeowner's Association, said since the residents in the area have been annexed the city staff has been very responsive to their needs. He did suggest that when schedules are released to citizens that one person be responsible for getting schedules and information to citizens.

C. Ordinance No. 1779 - Third reading of an ordinance amending Chapter 25 (Streets and Sidewalks) of the Code of Ordinances of the City of Asheville regarding group demonstrations.

Mayor Bissette said this amendment will allow group demonstrations during daylight hours for as long as a month without paying the additional administrative fee so long as there are five or fewer individuals involved. For parades or demonstrations in excess of five persons, a separate fee would still be required each day.

Mayor Bissette said this ordinance was previously read on first and second readings and will not be reread in its entirety unless there was a specific request to do so.

On a roll call reading of 7-0, Ordinance No. 1779 passed on third and final reading.

Ordinance Book 11, Page 471

IV. NEW BUSINESS:

A. Ordinance No. 1782 - Budget Ordinance amendment for Downtown Image Campaign

Mayor Bissette said this budget amendment will transfer funds from Festival Reserve Funds to a newly created account activity - Downtown Image Campaign.

Mayor Bissette said this ordinance was previously distributed to members of Council and would not be read in its entirety unless there was a specific request to do so.

Council Price moved for the adoption of Ordinance No. 1782. This motion was seconded by Vice Mayor Michalove.

On a roll call vote of 7-0, Ordinance No. 1782 passed on first and final reading.

Ordinance Book 11, Page 475

B. **Ordinance No. 1783 - Budget Ordinance amendment for Moonlight Over Downtown**

Mayor Bissette said this budget amendment will transfer funds from Festival Reserve Funds to "Moonlight Over Downtown" for 1990.

Mayor Bissette said this ordinance was previously distributed to members of Council and would not be read in its entirety unless there was a specific request to do so.

Council Frank moved for the adoption of Ordinance No. 1783. This motion was seconded by Councilman York.

On a roll call vote of 7-0, Ordinance No. 1783 passed on first and final reading.

Ordinance Book 11, Page 476

C. **Ordinance No. 1784 - Budget Ordinance amendment to provide funds to reimburse FAA for Airport Property.**

Mayor Bissette said this budget amendment will provide funds to reimburse the FAA for Airport Property originally purchased with grant funds.

Mayor Bissette said this ordinance was previously distributed to members of Council and would not be read in its entirety unless there was a specific request to do so.

Council Price moved for the adoption of Ordinance No. 1784. This motion was seconded by Councilman Martin.

On a roll call vote of 7-0, Ordinance No. 1784 passed on first and final reading.

Ordinance Book 11, Page 477

D. Resolution No. 89-127 - Resolution authorizing the amendment of the FY 90 Urban Mass Transportation Grant Application under Section 9 of the UMTA Act of 1964, as amended.

Mayor Bissette said this resolution will authorize the amendment of the FY '90 Urban Mass Transportation Grant Application under Section 9 of the UMTA Act of 1965, as amended. The grant application contained planning elements for transit programs. The Long Range Public Transportation Plan element appropriated $21,000 for a consultant study of the transit system and the downtown transfer site. NCDOT recommends we increase this element's cost to $55,000 (additional Section 9 planning elements totaling $7,600 are not changing).

Mayor Bissette said this resolution was previously distributed to members of Council and would not be read in its entirety unless there was a specific request to do so.

There was a discussion relative to the site of the bus transfer station.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 89-127 was unanimously adopted.

Resolution Book No. 17, Page 483

E. Ordinance No. 1785 - Budget Ordinance amendment to increase grant funds under Section 9 of the UMTA Act of 1964, as amended.

Mayor Bissette said the grant application contained planning elements for transit programs. The Long Range Public Transportation Plan element appropriated $21,000 for a consultant study of the transit system and the downtown transfer site. NCDOT recommends we increase this element's cost to $55,000. (Additional Section 9 planning elements totaling $7600 are not changing.)

Mayor Bissette said this ordinance was previously distributed to members of Council and would not be read in its entirety unless there was a specific request to do so.

Council Bratton moved for the adoption of Ordinance No. 1785. This motion was seconded by Councilman Martin.

On a roll call vote of 7-0, Ordinance No. 1785 passed on first and final reading.

Ordinance Book 11, Page 478

F. **Ordinance No. 1786 - Budget Ordinance amendment to provide allocation for Land-of-Sky Senior Services Grant for Outreach.**

Mayor Bissette said grant funds will be used for outreach services to Harvest House and Senior Opportunity Center as well as providing programs for seniors at Battery Park Apartments, Vanderbilt Apartments, Bartlett Arms, Aston Towers, and similar housing areas for senior citizens. This budget amendment is in the amount of $15,000.00.

Mayor Bissette said this ordinance was previously distributed to members of Council and would not be read in its entirety unless there was a specific request to do so.

Council Martin moved for the adoption of Ordinance No. 1786. This motion was seconded by Vice Mayor Michalove.

On a roll call vote of 7-0, Ordinance No. 1786 passed on first and final reading.

Ordinance Book 11, Page 479

G. **Approval of sign permit for 56 Central Avenue Condominium Association**

Mayor Bissette said consideration of the sign permit for 56 Central Avenue has been scheduled for a later date.

H. **Ordinance No. 1787 - Budget Ordinance amendment to provide allocation for Land-of-Sky Senior Services Grant for renovations.**

Mayor Bissette said grant funds will be used to upgrade heating system and install central air conditioning system at Harvest House.

Mayor Bissette said this ordinance was previously distributed to members of Council and would not be read in its entirety unless there was a specific request to do so.

Council Martin moved for the adoption of Ordinance No. 1787. This motion was seconded by Vice Mayor Michalove.

On a roll call vote of 7-0, Ordinance No. 1787 passed on first and final reading.

Ordinance Book 11, Page 480

V. CONSENT:

A. Resolution No. 89-128 - Resolution authorizing the City Manager to enter into agreements necessary to conduct the French Broad Riverfest.

Mayor Bissette said this resolution will authorize the City Manager to enter into agreements necessary to conduct the French Broad Riverfest.

Resolution Book No. 17, Page 484

B. Resolution No. 89-129 - Resolution authorizing the City Manager of the City of Asheville to enter into a contract with Buncombe County Child Development for the purchase of Afterschool Child Care in the Afterschool Programs in certain city elementary schools.

Mayor Bissette said this resolution will authorize the City Manager of the City of Asheville to enter into a contract with Buncombe County Child Development for the purchase of Afterschool Child Care in the Afterschool Programs in certain city elementary schools.

A discussion was held, initiated by Councilman Bratton, as to whether or not this is a duplication of services. Ray Kisiah, Director of Parks, Recreation, and Public Facilities, explained that this agreement is necessary in order for the City to be funded for Afterschool care for individuals that can not afford the services. He said this is not a duplication of services.

Resolution Book No. 17, Page 485

C. Resolution No. 89-130 - Resolution authorizing the City Manager of the City of Asheville to make application for and enter into an agreement with the Land-of-Sky Regional Council for Senior Citizens Grant Funds for Outreach Services.

Mayor Bissette said the senior citizen grant funds will be used to provide outreach services to Harvest House and Senior Opportunity Center on a daily basis as well

as providing programs for seniors at Battery Park Apartments, Vanderbilt Apartments, Bartlett Arms, Aston Towers, and similar housing areas for senior citizens.

D. **Resolution No. 89-131 - Resolution authorizing the City Manager of the City of Asheville to make application for and enter into an agreement with the Land-of-Sky Regional Council for Senior Citizens Grant Funds for renovations.**

Mayor Bissette said the senior citizen grant funds will be used to upgrade the heating system and install central air conditioning at Harvest House.

Upon motion of Vice Mayor Michalove, seconded by Councilman Frank, the consent agenda was unanimously adopted.

VI. OTHER BUSINESS:

A. **Resolution No. 89-132 - Resolution of the Council of the City of Asheville, North Carolina, extending an invitation to the City of Kislovodsk, Russia, to become a Sister City and inviting the people of Kislovodsk, Russia, to participate in the program.**

Mayor Bissette read the resolution. He said this resolution will extend an invitation to the City of Kislovodsk, Russia, to become a Sister City to Asheville and will also invite the people of Kislovodsk to participate in the program. He said copies of the resolution would be sent to the Mayor and Council of the City of Kislovodsk, Russia, to the Sister Cities International organization in Washington, D.C., to the Embassy in Russia, and the U.S. Embassy in Russia.

Upon motion of Councilman Frank, seconded by Councilman Bratton, Resolution No. 89-132 was unanimously adopted.

Resolution Book No. 17, Page 488

B. **Councilman Price - Request for Report on I-26 Ramp Connector**

Councilman Price requested a report on the needed improvements to the I-26 ramp connector.

C. **Councilman York - Report People for Justice Task Force Committee**

Councilman York said the People for Justice Task Force Committee has met and will meet again this week. Thus far, he said there has been a good line of communication

and exchange of ideas. He said he is really encouraged about the success of the Task Force.

D. **Claims- Bill Blevins (Police) - Donna Seymour (Sanitation)**

The City Manager presented claims received from Bill Blevins and Donna Seymour.

E. **Lawsuits - Dan C. Worley v. City of Asheville**

The City Manager said the City was served with a lawsuit on August 18, 1989 involving Dan C. Worley v. City of Asheville regarding an appeal from a Civil Service Board decision.

VII. ADJOURNMENT

Mayor Bissette adjourned the meeting at 6:30 p.m.

MAYOR

CITY CLERK

Tuesday - August 29, 1989 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell Martin and A. Robert York; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Councilman Price.

APPROVAL OF MINUTES

Mayor Bissette announced the approval of the minutes of the August 22, 1989 meeting as submitted.

I. PROCLAMATIONS:

A. **Recognition of Friendship Force delegation from Russia**

Tracy McFarlan, Past President of Friendship Force of Western North Carolina, introduced eight (8) delegates from Russia visiting Asheville under the Friendship Force organization.

Analoliv Bokov, from Russia, thanked the citizens of Asheville for their hospitality. Mike Arrowood was interpreter.

B. **Recognition of Hillcrest Enrichment Program participants**

Mayor Bissette read the proclamation. He said this proclamation recognizes the participants of the Hillcrest Enrichment Program for their performance in the "Back to School" Parade in Chicago, Illinois - the second largest "Back to School" Parade in the Nation.

David Jones, Executive Director of the Housing Authority, also recognized the participants; Peggy Shook, Chairman of the Housing Authority; and Hunter Watson, Commissioner of the Housing Authority.

Miss Williams, Head Majorette and Youth Advisor, thanked members of Council for the Certificate of Appreciation.

II. PUBLIC HEARINGS:

A. Public hearing relative to the site plan of the proposed Cisco Road Apartments.

Mayor Bissette said the Asheville Planning and Zoning Commission reviewed and approved the site plan subject to several contingencies. He said the site plan is now before the City Council for consideration.

Mayor Bissette opened the public hearing at 4:34 P.M.

The City Clerk presented the notice to the public and the affidavit of publication.

Tom Elmore, from the Planning Department, said on August 2, 1989, the Asheville Planning and Zoning Commission reviewed and approved the site plan of the proposed Cisco Road Apartments subject to the following contingencies:

1. Approval of erosion control plan by the Planning Department prior to soil disturbance;

2. Installation of an approved residential sprinkler system and receipt of the proposed right-of-way dedication prior to issuance of certificate of occupancy; and

3. Installation of septic tank system not to impose on any required buffering of the project.

Mr. Elmore said the property is located on Cisco Road on 5.1 acres and is zoned R-2 Residential. He said the developer proposes to construct three apartment buildings with four units each. He said water is available and a septic tank permit has been issued. He said fire protection is available with contingencies and a 20' buffer is proposed on the east/west side.

Mr. Elmore said the residents are concerned about snow access, increased traffic, site visibility, and water pressure. He said they also asked that the center line of Cisco Road be painted.

Mr. Elmore said it has been determined that a 6" sewer line is available for this property.

E. L. Siler, 40 Cisco Road, spoke relative to the project stating that a sewer line with a pumping station is not being taken care of. He said the private pumping station is causing problems on his property.

Barbara Melton, speaking on behalf of the Haw Creek Homeowner's Association, said there are existing problems with Cisco Road. She said the water pressure problems still exist. She said the City needs to take some action to correct these problems if building is to continue in Haw Creek.

Scott McIntire, architect for the project, spoke in support of approval for the project. He said certainly a sewer line would be more acceptable than a septic tank.

After discussion, Vice-Mayor Michalove moved to continue the public hearing until September 12, 1989, without further advertisement, in order that the basic problems can be addressed before approval of the project and members of Council can make sure the City is not imposing any more problems on the residents in the area. This motion was seconded by Councilman Frank and carried unanimously.

B. **Ordinance No. 1788 - Public hearing relative to the adoption of an ordinance directing the Director of Inspections to proceed with the demolition and removal of the dwelling known as 66 Elizabeth Place.**

Mayor Bissette said this ordinance, upon final adoption, will instruct the Director of Inspections to proceed with the demolition and removal of the dwelling known as 66 Elizabeth Place. He said Resolution No. 89-105 was adopted on August 8, 1989, calling for this public hearing.

Mayor Bissette opened the public hearing at 5:01 P.M.

The City Clerk presented the notice to the public and the affidavit of publication.

The City Attorney said statutory procedures were followed in order to proceed with the demolition and removal of the dwelling known as 66 Elizabeth Place.

Mayor Bissette closed the public hearing at 5:04 P.M.

Mayor Bissette said copies of this ordinance was previously distributed to members of Council and would not be read in its entirety unless there was a specific request to do so.

Councilman Martin moved to approve Ordinance No. 1788. This motion was seconded by Councilman Price.

On a roll call vote of 7-0, Ordinance No. 1788 passed on first reading.

Councilman Price moved to suspend the rules and proceed to the second reading of Ordinance No. 1788. This motion was seconded by Councilman Martin and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1788 passed on second reading.

Councilman Price moved to suspend the rules and proceed to the third reading of Ordinance No. 1788. This motion was seconded by Councilman Martin and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1788 passed on third and final reading.

Ordinance Book 11 - Page 481

C. Public hearing and adoption of resolution relative to closing a portion of Westwood Place.

Mayor Bissette said George W. Morosani, owner of Lots 134 and 135 of Ward 6, Sheet 2 of the Buncombe County Tax Maps, has filed a written petition and request to close a portion of Westwood Place. He said this portion of Westwood Place is totally surrounded by property owned by Mr. Morosani. A resolution of intent calling for a public hearing was adopted on August 1, 1989.

Mayor Bissette opened the public hearing at 5:06 p.m.

The City Clerk presented the notice to the public and the affidavit of publication.

Tom Elmore, with the Planning Department, said the closing of a this portion of Westwood Place is in connection with a site plan now under consideration by the Planning and Zoning Commission. He said the developer proposes to construct a mini-storage warehouse

facility. He said the closing is needed for site access and in order to meet setback requirements.

David Matney, representing George W. Morosani, said Westwood Place currently ends at a barricade. He said his client is requesting that a portion of the road be closed which would only move the barricade a short distance. He said no one would be deprived of ingress and egress to their property.

After considerable discussion, Councilman Price moved to continue the public hearing until September 12, 1989 at which time a recommendation would be received from the Planning and Zoning Commission relative to the site plan for the mini-storage warehouse. She said perhaps the site plan could be approved with a contingency that a portion of Westwood Place be closed and that a proper turn-around would be provided. This motion was seconded by Councilman Bratton and carried on a voice vote of 6-1 with Councilman Martin voting "no".

D. Ordinance No. 1789 - Public hearing and adoption of ordinance relative to rezoning property located at #1 St. Dunstan's Road.

At the request of Mayor Bissette, Councilman Frank moved to excuse Mayor Bissette from participation in the matter involving #1 St. Dunstan's Road due to his law firm representing the petitioner. This motion was seconded by Councilman Bratton and carried unanimously.

Vice-Mayor Michalove said the Asheville Planning and Zoning Commission on August 2, 1989, reviewed and recommended approval of rezoning Ward 4, Sheet 13, Lot 8, from R-3 Residential District to OI Office-Institutional District.

Mayor Bissette opened the public hearing at 5:43 p.m.

The City Clerk presented the notice to the public and the affidavit of publication.

Carol Alberice, from the Planning Department, said this property is bordered by Sterling Street and is used as a doctor's office. She reviewed the surrounding zoning and uses of the property and said the OI Office Institutional District zoning would expand the medical community. She said one area resident voiced opposition to the rezoning stating that the area is residential in character and changing the zoning would increase traffic in the area.

Vice-Mayor Michalove closed the public hearing at 5:45 p.m.

Vice-Mayor Michalove said copies of this ordinance was previously distributed to members of Council and would not be read in its entirety unless there was a specific request to do so.

Councilman Bratton moved to approve Ordinance No. 1789. This motion was seconded by Councilman York.

On a roll call vote of 7-0, Ordinance No. 1789 passed on first reading.

III. OLD BUSINESS:

A. Continuation of a public hearing relative to the site plan for Staff Housing at Grove Park Inn.

Mayor Bissette said the Asheville Planning and Zoning Commission on July 5, 1989, reviewed and recommended approval of the site plan subject to several contingencies. He said this public hearing was continued from the August 8, 1989 meeting.

Tom Elmore of the Planning Department said on July 5, 1989, the Asheville Planning and Zoning Commission reviewed and recommended approval of the site plan of the proposed staff housing at Grove Park Inn subject to the following contingencies:

1) Approval of erosion control plan by the Planning Department prior to soil disturbance;

2) Approval by Planning Director of on-site lighting; and

3) Approval by Planning Director of on-site noise generating mechanical units.

Mr. Elmore said the project would consist of a three story 69 unit staff facility in close proximity to the existing structure. He said there had been extensive public comments relative to the project. He said concerns were expressed about traffic, glare from the parking lights, air conditioning noise, and erosion control.

Verl Emrick from the Planning Department, said he had been working as a liaison for the City with Grove Park Inn and the residents in the area.

Mr. Emrick presented a letter, dated August 29, 1989, from Jack Westall, Attorney for Grove Park

Inn, outlining the status of the items which have been a concern of the residents. A copy of the letter is made a part of these minutes.

Jack Westall, Attorney for Grove Park Inn, said he felt the concerns of the residents and the approval of the project for the staff housing should be separate issues. He reiterated the status of the lighting, erosion control plan, and the cooling tower noise. He said there is an inevitable conflict between the commercial establishment and the residential area. He said Grove Park Inn is doing everything possible to alleviate these problems.

Max Haner, speaking on behalf of the Grove Park Homeowners Association, said he disagreed with Mr. Westall on a number of issues. He said the residents feel these concerns should not be ignored and should be addressed before approval of their project. He said the level of confidence between the residents and Grove Park Inn has increased due to the establishment of the Liaison Committee and it was their hope that the communication would continue. He said they would also request that when the project is approved that stipulations be made that construction hours be between 8:00 a.m. and 8:00 p.m. with no Sunday construction; that construction traffic be limited with a specific route being established; that approval be contingent upon a formal agreement being reached with all problems addressed.

Teresa White, 11 Woodcrest Road, spoke relative to construction debris being dumped and unsightly dumpsters being placed in the area. She also expressed concern about the air conditioning noise.

A resident of West Asheville whose mother lives in the Grove Park Inn area said he felt the concessions expressed by Grove Park Inn are unacceptable. He said they should also give completion dates as to when these problems would be resolved.

Liddy Sidnick, resident of the Grove Park Inn area, said she felt Grove Park Inn is overdeveloped.

Roger Dameron, architect for the proposed project, gave a detailed report on the construction of the staff housing facility.

Lilly Miller, 82 Grovewood Road, said she was also concerned about the air conditioning noise.

Mayor Bissette closed the public hearing at 7:14 p.m.

Vice-Mayor Michalove suggested that action be postponed until the September 12, 1989 meeting in order to give legal consideration to the wording of the motion.

Vice-Mayor Michalove moved to continue the public hearing without further advertisement until September 12, 1989. This motion was seconded by Councilman Price and carried unanimously.

B. Ordinance No. 1780 - Third reading of an ordinance amending the City Charter of the City of Asheville pursuant to North Carolina General Statute Sec. 160A-102 to provide for election of the Asheville City Council by the nonpartisan election and runoff election method as set forth in North Carolina General Statute Sec. 163-293.

C. Ordinance No. 1781 - Third reading of an ordinance amending the City Charter of the City of Asheville pursuant to North Carolina General Statute Sec. 160A-102 to provide for election of members of City Council by district as authorized by North Carolina General Statute Section 160A-101(6)c.

IV. NEW BUSINESS:

A. Resolution calling for a special election for the purpose of submitting to a vote Ordinance No. _____ regarding amendment of the City Charter of the City of Asheville to provide for elections by the nonpartisan election and runoff election method.

B. Resolution calling for a special election for the purpose of submitting to a vote Ordinance No. _____ regarding amendment of the City Charter of the City of Asheville to provide for election of members of City Council by district.

Mayor Bissette said action on the above matters have been postponed until September 5, 1989, giving members of Council an opportunity to review a proposal received from the committee who sponsored a petition for nonpartisan elections and district representation.

Rendall Davis, White Pine Drive, spoke relative to nonpartisan elections and district representation and Council's reaction to same.

Roy Harrison of 59 Bartlett Street spoke to members of Council relative to Council's action/nonaction on various issues.

C. **Ordinance No. 1790 - Ordinance amending Sections 28-81.2, 28-81.3, and 28-81.4 of Article IV, Speed Regulations, of Chapter 28 of the Code of Ordinances of the City of Asheville - Speed Limit changes in the Beverly Hills area, as well as on Macon Avenue.**

Mayor Bissette said City staff has conducted a traffic/speed investigation which revealed that speed limit reductions are warranted on certain streets. These streets, along with the recommended speed limits, are as follows:

Beverly Road	-	20 MPH
Governor's View Road	-	25 MPH
Fairway Drive	-	25 MPH
Gladstone Road	-	25 MPH
Kensington Drive	-	20 MPH
Macon Avenue	-	25 MPH

A representative of the Beverly Hills Homeowners Association spoke in favor of the speed limit changes.

Mayor Bissette said this ordinance was previously distributed to members of Council and would not be read in its entirety unless there was a specific request to do so.

Councilman Price moved for the adoption of Ordinance No. 1790. This motion was seconded by Councilman Martin.

On a roll call vote of 7-0, Ordinance No. 1790 passed on first reading.

Vice-Mayor Michalove moved to suspend the rules and proceed to the second reading of Ordinance No. 1790. This motion was seconded by Councilman Bratton and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1790 passed on second reading.

D. **Resolution No. 89-133 - Resolution relative to map of consideration for annexation.**

Mayor Bissette said the map of the City identifying areas under consideration for annexation expired on June 2, 1989, pursuant to N. C. Gen. Stat. 160A-49(i). Readoption of the map is necessary in order for the City to set an effective date for annexation earlier than one year from the passage of an annexation ordinance if desired.

Patty Tallerday, from the Planning Department, presented the map outlining the areas to be considered for annexation.

Mayor Bissette said copies of this resolution was previously distributed to members of Council and would not be read in its entirety unless there was a specific request to do so.

Upon motion of Vice-Mayor Michalove, seconded by Councilman Martin, Resolution No. 89-134 was unanimously adopted.

Resolution Book No. 17, Page 489

V. CONSENT:

VI. OTHER BUSINESS:

A. Claims - John Collins (Streets), John Shook (Water), Howard Lee (Water), James Webb (Sewer) and John Kledis (Sewer)

The City Manager presented claims received from John Collins, John Shook, Howard Lee, James Webb and John Kledis.

VII. ADJOURNMENT

Mayor Bissette adjourned the meeting at 8:00 p.m.

MAYOR

CITY CLERK

Tuesday - September 5, 1989 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell Martin and A. Robert York; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Mayor Bissette.

APPROVAL OF MINUTES

Mayor Bissette announced the approval of the minutes of the August 29, 1989 meeting as submitted.

I. PROCLAMATIONS:

II. PUBLIC HEARINGS:

III. OLD BUSINESS:

A. Third reading of an ordinance amending the City Charter of the City of Asheville pursuant to North Carolina General Statute Sec. 160A-102 to provide for election of the Asheville City Council by the nonpartisan election and runoff election method as set forth in North Carolina General Statute Sec. 163-293.

Mayor Bissette read the following statement:

"The City Council has made a determination that, rather than proceed with adoption of the ordinances amending the City Charter to provide for nonpartisan and district elections, both issues will be tabled in order to allow further study. The question of district elections became an issue among City Council only as a result of a petition has been effectively withdrawn. This withdrawal of the petition eliminates the necessity that the City Council take immediate action.

We have, therefore, determined that prior to placing either issue on the ballot, further study should be undertaken. The City Council will, therefore, appoint a task force to

study the issues of district elections and nonpartisan elections, as well as the possibility of additional revisions in the City Charter affecting municipal elections as provided by the North Carolina General Statutes. It is our hope that with the input from the task force, the City Council will make a determination within approximately one year on what issues, if any, should be submitted to the voters with regard to such changes. We feel that this additional period of study, including the input of the general public at public hearings, will resolve this matter in keeping with the best interests of the citizens of the City of Asheville."

Councilman Price said the statement shows that the City Council has been aware of the concern of the public relative to the nonpartisan election issue. She said that in passing a motion to table the ordinance, City Council would show a need for further study and review of the issue.

Councilman Price moved to table the nonpartisan election ordinance. This motion was seconded by Councilman Bratton and carried unanimously.

B. Third reading of an ordinance amending the City Charter of the City of Asheville pursuant to North Carolina General Statute Sec. 160A-102 to provide for election of members of City Council by district as authorized by North Carolina General Statute Section 160A-101(6)c.

Councilman Price said the statement shows that the City Council has been aware of the concern of the public relative to the district election issue. She said that in passing a motion to table the ordinance, City Council would show a need for further study and review of the issue.

Councilman Price moved to table the district election ordinance. This motion was seconded by Councilman Frank and carried unanimously.

Mayor Bissette said he felt the concerns relative to the above two issues regarding elections had been worked out to the best interest of the City of Asheville.

Councilman Bratton said this is a perfect example that when the Council and community work together on an issue of what can happen in the best interest of the City of Asheville.

Councilman Price said the Council appreciates those involved with the petition, particularly Ed Schell, for the way they have cooperated.

Mayor Bissette said a task force would be appointed to study all types of elections systems, including staggered

versus set terms, partisan versus nonpartisan elections, length of terms, and various forms of districting and at-large elections.

C. **Resolution calling for a special election for the purpose of submitting to a vote Ordinance No. _____ regarding amendment of the City Charter of the City of Asheville to provide for elections by the nonpartisan election and runoff election method.**

Mayor Bissette said consideration of this resolution would be moot since no ordinance has been adopted. Therefore, he said, the resolution would be deleted from the agenda.

D. **Resolution calling for a special election for the purpose of submitting to a vote Ordinance No. _____ regarding amendment of the City Charter of the City of Asheville to provide for election of members of City Council by district.**

Mayor Bissette said consideration of this resolution would be moot since no ordinance has been adopted. Therefore, he said, the resolution would be deleted from the agenda.

IV. NEW BUSINESS:

A. **Resolution No. 89-134 - Resolution of endorsement of widening Broadway Avenue from Catawba Street to Chestnut Street with a Bikeway extending from Catawba Street to Interstate 240.**

Mayor Bissette said this resolution will indicate the City Council's support of the Broadway Project being included in the North endorsement of widening Broadway Avenue from Catawba Street to Chestnut Street with a Bikeway extending from Catawba Street to Interstate 240 as part of the development of the Broadway highway project. He said this resolution would urge the N. C. Board of Transportation to include this project in the FY 1990 Transportation Improvement Project.

Mayor Bissette said copies of this resolution had previously been distributed to members of City Council and that the resolution would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Frank, seconded by Councilman Martin, Resolution No. 89-134 was unanimously adopted.

Resolution Book No. 17, Pages 490-491

V. CONSENT:

VI. OTHER BUSINESS:

A. George Tisdale - Property Acquisition for Broadway Project

George Tisdale of 65 Shorewood Drive inquired whether or not there were any precautionary measures the City Council could take to keep the right-of-way costs for the Broadway Project from accelerating with speculators. He indicated that Anthony Lord was willing to donate some right-of-way for this project.

Mayor Bissette said contacts had been made with the owners of the property to see if the owners were willing to donate the necessary rights-of-way for the project. However, he said, the owners were not willing to contribute.

Councilman Frank said Mr. Lord is interested in selling right-of-way to the Department of Transportation, but has contributed a small piece of property to the City of Asheville for a greenspace.

B. Councilman Bratton - National Alcohol and Drug Abuse Month Proclamation

Councilman Bratton requested that a proclamation relative to National Alcohol and Drug Abuse Month be placed on the agenda for the September 12th meeting.

C. Ralph Bishop - Gambling in the City of Asheville

Ralph Bishop addressed the City Council relative to his concerns about gambling in the City of Asheville and his right to seek redress.

VII. ADJOURNMENT

Mayor Bissette adjourned the meeting at 4:50 p.m.

MAYOR

CITY CLERK

Tuesday - September 12, 1989 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell Martin and A. Robert York; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Vice-Mayor Michalove.

APPROVAL OF MINUTES

Mayor Bissette announced the approval of the minutes of the September 5, 1989 meeting as submitted.

I. PROCLAMATIONS:

A. **Proclamation - September, 1989 - "French Broad River Month"**

Mayor Bissette read the proclamation and presented a copy to Jean Webb, with the French Broad River Foundation.

B. **Proclamation - September 9-17, 1989 - "Symphony Week"**

Mayor Bissette read the proclamation and presented a copy to Robert Hart Baker, Music Director for the Symphony and Margaret Gromley, President of the Symphony Guild.

C. **Proclamation - September, 1989 - "National Alcohol and Drug Abuse Month"**

Mayor Bissette read the proclamation and presented a copy to Pete Banyai, Director of War on Drugs Commission.

D. **Proclamation - September 17-23, 1989 - "Emergency Medical Services Week"**

Mayor Bissette read the proclamation and presented a copy to Fire Chief John Rukavina.

E. **Proclamation - September 16, 1989 - "Smith-McDowell House 5-K Run and Medical Mile Day"**

Mayor Bissette read the proclamation and presented a copy to Bob Burgin from Mission Hospital and Dick Hatton from St. Joseph's Hospital.

F. Awards Recognition Program - 2010 Asheville City Plan.

Mayor Bissette said two years ago this community was engaged in a unique planning process called "Alternatives for Asheville". This process was designed to let all citizens have an opportunity to help write the City's 2010 plan.

The Asheville community has been hard at work for the past two years accomplishing the goals and strategies of the 2010 plan and their own organizations.

He said we are today honoring this hard work with this first Achievement Awards program. He said all the strategies that were to be accomplished in the past two years are available in a "Special Report" but he would not be able to mention all of the accomplishments today but would highlight some of them in this awards ceremony.

He asked Vice-Mayor Michalove, Councilman Price, and Mike Moser, Chairman of the Planning and Zoning Commission, to join him in presenting the awards.

Awards were presented to the following individuals:

Asheville-Buncombe Discovery - Karen Fields, Executive Director and Roger McGuire, Chairman

Public Works Department - Jim Ewing

Asheville Airport Authority - Jim Parker, Executive Director and James Rice, Chairman

Water and Sewer Engineering, Harold Huff

Asheville-Buncombe Library System - Nancy Hammond, Acting Director and Bud Taylor, Chairman

Downtown Development, Leslie Anderson

Asheville-Buncombe Technical College - Harvey Haynes, President and Sara Morris, Vice-President

Parks and Recreation Department, Ray Kisiah

Asheville City Schools - Dr. Doug Pearson, Superintendent and David Hillier, Chairman

Finance Department - Larry Fisher

Asheville Transit Authority - Tom Tomlin, Chairman

Planning Department - Julie Cogburn

Asheville Tree and Greenway Commission - Susan Roderick, Chairman

Personnel Department, Pam McGrayne

Quality Forward - Susan Roderick, Executive Director and Linda Nicodemus, Chairman

Legal Department, Patsy Brison and Bill Slawter

Buncombe County Schools - Dr. Gene Yarborough, Superintendent and Scott Harrower, Board of Education Chairman

Audit and Budget - Bob Wurst

Buncombe County Commissioners - Gene Rainey, Chairman, Jon Creighton, Planning Director, Steve Metcalf, County Manager, and Jerry VeHaun, Director of Emergency Services

Fire Department, Chief John Rukavina

Chamber of Commerce - Mike Rollins, Executive Director, and George Beverly, President

French Broad River Foundation - Lee Reading, Chairman

Asheville Housing Authority - David Jones, Executive Director, Larry Holt and Peggy Shook

Land-of-Sky Regional Council - Bob Shepherd, Executive Director, and Andy Andrews, Chairman

Tourism Development Authority - Carolyn Ketchum, Director and Steve Miller, Chairman

UNC-A - Dr. David Brown, Chancellor and Tom Byers

Transportation Advisory Committee - Andy Andrews

Asheville-Buncombe Water Authority - Ralph Morris, Chairman

Police Department - Gerald Beavers

Asheville Planning and Zoning Commission - Mike Moser, Chairman and Danie Johnson, Vice-Chairman

Historic Resources Commission - Barbara Molloy, Chairman

Downtown Commission - Bob Carr, Chairman

Civic Center - Bill Murphy

YMI Board of Directors - Wanda Henry Coleman, Executive Director, Al Whitesides, Chairman and Dr. Howard Harrison

Mike Moser said it is time to update the City's Master Plan, 2010 Plan. He said three community meetings are scheduled in the Asheville Civic Center Banquet Room for the citizens of Asheville to take part in the update of the 2010 Asheville City Plan.

Thursday - September 14 at 7:00 p.m. - Major topics to be discussed: Recreation and Open Space Planning, Land Use, Annexation and Extraterritorial Jurisdiction (Includes Economic Development, Parks, Greenways, etc.)

Thursday, September 21 at 4:00 p.m. - Major topics to be discussed: Transportation and Public Utilities (Includes Water and Sewer Services, Public Streets and Sidewalks, Bus and Airport Services, etc.)

Thursday, September 28 at 7:00 p.m. - Major topics to be discussed: Housing, Community Services, Human Resources, Downtown Asheville, Historic Preservation and Community Appearance.

II. PUBLIC HEARINGS:

III. OLD BUSINESS:

A. Action relative to approval of group development plan of the proposed Staff Housing Quarters at Grove Park Inn

Mayor Bissette said the Asheville Planning and Zoning Commission on July 5, 1989, reviewed and recommended approval of the site plan subject to the following contingencies:

1) Approval of erosion control plan by the Planning Department prior to soil disturbance;
2) Approval by Planning Director of on-site lighting; and
3) Approval by Planning Director of on-site noise generating mechanical units.

He said a public hearing was held on the Grove Park Inn matter on August 29, 1989; however, action was postponed until today giving an opportunity for the concerns of the area residents to be addressed.

Roger Dameron, Architect for the project, said he wanted to reiterate comments that he had presented to members of Council in a letter. He said the proposed project exceeds all building and zoning codes and

regulations and should be considered on its own merits. He said the concerns expressed by the area residents are pre-existing conditions that do not violate any codes and regulations. He requested that Council approve the project.

Walter Gale of 10 Club View Road, presented members of Council with a petition containing forty-four signatures from North Asheville residents that feel the Grove Park Inn should do what is necessary to reduce significantly the noise level of the very large fan located adjacent to the parking garage serving the Vanderbilt Wing.

Teresa White, resident in the Grove Park Inn area, spoke relative to the noise from the air conditioner.

Max Haner, President of the Grove Park Homeowners Association, said Grove Park Inn is an industry in Asheville and they have a responsibility to area residents. He said the concerns of the residents should be addressed.

Larry New, Landscape Engineer, with Vaughn and Melton Engineers, said they were retained by Grove Park Inn to investigate the erosion control problems. He said he received a report today about the erosion control problems dealing with the parking lot bank and the report needs to be analyzed by himself and Grove Park Inn before a final decision on how to correct the problems can be determined.

Jack Westall, Attorney for Grove Park Inn, said most of the concerns expressed by the area residents have been addressed and Grove Park Inn is making every effort to correct the problems in a reasonable manner. He said they have not determined a feasible way to correct the noise from the air conditioners but would continue looking at different alternatives to reduce the noise from the air conditioners. He said Grove Park Inn has been in contact with Daniels Construction Company who originally installed the air conditioner to determine if they have a solution.

Mr. Westall stated that if the noise problem is not resolved in some fashion, such as a contribution by Daniels toward the cost of reducing the noise, that the issue might be decided in court. He further stated that, while any such litigation might last two to three years, the Grove Park Inn would not wait until that time to try to resolve the problem, but rather would continue diligently to pursue all options in an attempt to solve the noise problem.

Mr. Westall said the Staff Housing project should be viewed independently since this project meets or exceeds all building and code requirements. He said Grove Park Inn is not willing to accept a contingency on approval of this project that occupancy would be based on correction of the problems addressed by the area residents. He said Grove Park Inn wants to be a good neighbor and is willing to work on the problems. He said Grove Park Inn has no objection to keeping in contact the Liaison Committee with the City Staff, Grove Park Inn, and the area residents to continue working on the concerns of the residents.

He said Grove Park Inn will continue to diligently work to solve the noise from the air conditioners.

After discussion, Vice-Mayor Michalove moved to approve the group development plan of the proposed Staff Housing Quarters at Grove Park Inn subject to the conditions outlined by the Planning and Zoning Commission and further that the Liaison Committee continue to meet to address the concerns of the area residents and that the Committee make periodic reports to Council. This motion was seconded by Councilman York and carried unanimously.

Councilman Price left the meeting at 6:25 p.m. unexcused.

B. **Continuation of the public hearing relative to Cisco Road Apartments.**

SUMMARY: The Asheville Planning and Zoning Commission on August 2, 1989, reviewed and approved the site plan subject to the following contingencies:

1. Approval of erosion control plan by the Planning Department prior to soil disturbance;

2. Installation of an approved residential sprinkler system and receipt of the proposed right-of-way dedication prior to issuance of certificate of occupancy; and

3. Installation of septic tank system not to impose on any required buffering of the project.

Mayor Bissette said this public hearing was continued from the August 29, 1989 meeting.

Gerald Green, from the Planning Department, said the developer has withdrawn his request at this time. He said the developer is redesigning his plans and the project will be resubmitted at a later date.

C. **Continuation of the public hearing relative to closing a portion of Westwood Place.**

Resolution No. 89-135 - Resolution closing a portion of Westwood Place

Mayor Bissette said George W. Morosani, Owner of Lots 134 and 135 of Ward 6, Sheet 2 of the Buncombe County Tax Maps, has filed a written petition and request to close a portion of Westwood Place. This portion of Westwood Place is totally surrounded by property owned by Mr. Morosani. A resolution of intent calling for a public hearing was adopted on August 1, 1989. This public hearing was continued from the August 29, 1989 meeting pending action by the Planning and Zoning Commission on a proposed project by Mr. Morosani for a mini-storage facility in the vicinity of Westwood Place.

Gerald Green, from the Planning Department, said on September 6, 1989 the Planning and Zoning Commission reviewed and approved the site plan of the Patton Mini-Storage facility on Westwood Place with several contingencies. He said one of the contingencies is that a provision be made for a dedicated right-of-way to allow turning at the proposed end of Westwood Place subject to approval by the Planning Director.

The City Attorney said the closing of Westwood Place and the group development planned by Mr. Morosani are independent issues to be addressed by the City Council.

Gerald Green stated that the Planning Department's recommendation was that Westwood Place be closed, whether or not the group development was approved.

After discussion, Mayor Bissette closed the public hearing at 6:38 p.m.

Mayor Bissette said members of Council were previously furnished copies of the resolution to close a portion of Westwood Place and it would not be read in its entirety.

Upon motion of Councilman Bratton, seconded by Councilman Frank, Resolution No. 89-135 was unanimously adopted.

D. **Ordinance No. 1789 - Second reading of ordinance to rezone property located at #1 St. Dunstan's Road.**

Mayor Bissette was previously excused from participation and vote on this issue due to a conflict of interest.

Vice-Mayor Michalove said the Asheville Planning and Zoning Commission on August 2, 1989, reviewed and recommended approval of rezoning Ward 4, Sheet 13, Lot 8 from R-3 Residential District to OI Office Institutional District.

Vice-Mayor Michalove said the ordinance was previously read on first reading and would not be reread in its entirety.

On a roll call vote of 6-0, Ordinance No. 1789 passed on second reading.

E. **Ordinance No. 1790 - Third reading of Ordinance amending Sections 28-81.2, 28-81.3, and 28-81.4 of Article IV, Speed Regulations, of Chapter 28 of the Code of Ordinances of the City of Asheville - Speed Limit changes in the Beverly Hills area, as well as on Macon Avenue.**

Mayor Bissette said the City staff has conducted a traffic/speed investigation which revealed that speed limit reductions are warranted on certain streets. These streets, along with the recommended speed limits, are as follows:

Beverly Road	-	20 MPH
Governor's View Road	-	25 MPH
Fairway Drive	-	25 MPH
Gladstone Road	-	25 MPH
Kensington Drive	-	20 MPH
Macon Avenue	-	25 MPH

Mayor Bissette said the ordinance was previously read on first and second reading and would not be reread in its entirety.

On a roll call vote of 7-0, Ordinance No. 1790 passed on third and final reading.

Ordinance Book No. 11 Page No. 484

IV. NEW BUSINESS:

A. **Motion to approve free standing identification signs and wall identification sign for the new Quality Inn - Biltmore located at 1115 Hendersonville Road.**

Mayor Bissette said City Council on October 25, 1989, approved the Biltmore Hotel group development to be located at One Vanderbilt Road. The developer is now requesting City Council's approval of two free-standing signs.

Gerald Green, from the Planning Department, said the applicant is requesting approval of a 98 square foot double face sign with a 41 square foot changeable copy sign to be mounted on a pole (24 feet high) at the entrance to the motel. Also requesting approval of a 45 square foot single face neon sign to the building to identify the restaurant. He said the sign complies with the Zoning Ordinance and the staff recommends approval. He said the sign must have the approval of City Council since it will be situated closer than 600' of a limited access highway.

Vice-Mayor Michalove moved to approve the sign permit request for Quality Inn - Biltmore located at 1115 Hendersonville Road. This motion was seconded by Councilman Martin and carried unanimously.

B. Motion to approve proposed free standing and wall signs to be located at the Shoney's Inn at 230 Hendersonville Road.

At the request of Mayor Bissette, Councilman Frank moved to excuse Mayor Bissette from participation and vote on the requested sign permit from Shoney's Inn due to a conflict of interest. This motion was seconded by Councilman York and carried unanimously.

Gerald Green, from the Planning Department said the applicant is requesting approval of a 63 square foot double face free standing sign (25 feet high) with an attached 35 square foot double face reader board (13 feet high). Also requesting approval of a 17.5 square foot wall sign to be attached to the new building. He said the sign complies with the Zoning Ordinance and must have approval from City Council since it will be situated closer than 600' from a limited access highway.

Councilman Martin moved to approve the sign permit requested by Shoney's Inn. This motion was seconded by Councilman Bratton and carried unanimously.

C. Annual Report on Affirmative Action Goals.

Pam McGrayne, Personnel Director, said the City's Affirmative Action Plan was adopted on June 22, 1988.

This is the first annual report which includes a status report on minority and female representation, an updated workforce analysis and goals for FY 89-90.

Mrs. McGrayne presented and highlighted the Affirmative Action Report.

Fire Chief John Rukavina and Police Chief Gerald Beavers spoke relative to their active recruitment efforts for the Police and Fire Departments. They indicated that they are focusing on minority recruitment.

Councilman Bratton suggested that the local legislative delegates be furnished a copy of the Affirmative Action Report and be advised that the "Rule of 3" in the Civil Service Rules impacts the City's Affirmative Action Plan.

V. CONSENT:

VI. OTHER BUSINESS:

A. Resolution No. 89-136 - Resolution authorizing the City Manager to file a grant application with the North Carolina Department of Crime Control and Public Safety in support of a Drug Enforcement Program

The City Manager presented the resolution stating that this grant from the Department of Crime Control and Public Safety is in the amount of $90,014.00 and is to made to the City of Asheville to assist in defraying the cost of the project known as "Housing Against Narcotics and Drugs (HAND).

Upon motion of Vice-Mayor Michalove, seconded by Councilman Martin, Resolution No. 89-136 was unanimously adopted.

Resolution Book No. 17 Page No. 494

B. French Broad River Foundation - Liability Insurance Coverage

The City Manager said the French Broad River Foundation will be named as additional insured for events at the Riverfest not covered under the Foundation's own liability policy. This coverage will extend to the French Broad River Foundation only for 1989 and excludes any coverage for their Board of Directors.

C. Scheduling of public hearing - Extension of Sign Moratorium

Councilman Frank moved to schedule a public hearing to consider extending a moratorium on the issuance of permits for off-

premises advertising signs within the zoning jurisdiction of the City of Asheville for October 3, 1989. This motion was seconded by Vice-Mayor Michalove and carried unanimously.

D. Report of Group Development Actions by the Planning and Zoning Commission

The City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. The action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. The following action was taken by the Planning and Zoning Commission at their meeting on September 6, 1989:

Asheville High School - Cultural Arts Facility

The Asheville Planning and Zoning Commission on September 6, 1989 reviewed and approved the site plan of the **Asheville High School - Cultural Arts Facility - Group Development** subject to the following contingencies:

1) Approval of erosion control plan by the Planning Department prior to soil disturbance; and 2) Receipt of an approval letter from the Fire Department. No opposition was expressed at the public hearing.

Council accepted the report of the Planning and Zoning Commission and the group development plan was approved as recommended by the Planning and Zoning Commission.

Patton Mini-Storage

The Asheville Planning and Zoning Commission on September 6, 1989 reviewed and approved the site plan of the **Patton Mini-Storage Facility - Group Development** subject to the following contingencies:

1) Approval of fire flows by the Fire Department prior to issuance of a building permit; 2) Approval of the closure of Westwood Place by City Council; 3) Addition to the site plan of a buffer at the intersection of Westwood and Hazel Mill subject to the approval of the Planning Director; and 4) Provision of a dedicated right-of-way to allow turning at the proposed end of Westwood Place subject to approval by the Planning Director.

Councilman Martin moved to schedule a public hearing relative to the Patton Mini-Storage Facility Group Development for October 24, 1989. This motion was

seconded by Vice-Mayor Michalove and carried unanimously.

(3) Haw Creek Heights

The Asheville Planning and Zoning Commission on September 6, 1989 reviewed and approved the site plan of the Haw Creek Heights - Group Development subject to the following contingencies:

1) Approval of an erosion control plan by the Planning Department prior to soil disturbance; and 2) Buffering as required by Asheville Zoning Ordinance.

Councilman Martin moved to schedule a public hearing relative to the Haw Creek Heights - Group Development for October 24, 1989. This motion was seconded by Vice-Mayor Michalove and carried unanimously.

(4) Wal-Mart on Tunnel Road - Amendment to Site Plan

The Asheville Planning and Zoning Commission on September 6, 1989 reviewed and approved the site plan of the Wal-Mart on Tunnel Road - Amendment to Site Plan - Group Development subject to the following contingencies:

1) That fill be tested and information provided to City; 2) Buffering as required by Asheville Zoning Ordinance; 3) Replacement of trees that have died.

Councilman Martin moved to schedule a public hearing relative to the Wal-Mart on Tunnel Road - Amendment to Site Plan - Group Development for October 24, 1989. This motion was seconded by Vice-Mayor Michalove and carried unanimously.

E. Proposal by Councilman Martin - Governmental Program at Asheville High School

Councilman Martin read the following memorandum relative to his proposal:

"For some time it has been apparent that more education and communication between City Council and members of the public would be helpful in our effort to inform our constituency.

One way to accomplish the educational aspect would be to promote a program at Asheville High School. Therefore, I would like to propose the following program to be coordinated between our city school system and staff to include our high school students.

I propose that the City Manager coordinate with the Superintendent of City Schools and the Principal of Asheville

High School an organized program to designate two students to serve with city council each Tuesday for a month (four council meetings). Each month two different students would be assigned to City Council service. Students assigned could be members of the Student Council or could be chosen by another method to include those interested in municipal government.

The students should receive the same packet of information delivered to city councilmen prior to each pre-council and council meeting. The packets could be delivered to the students at the administrative office of the high school each Monday prior to the Tuesday meeting.

Students would be expected to attend pre-council and council meetings and sit with council. They would be encouraged to contribute. In short, students would actually participate with council in our city government.

If this program is in effect for eight months each school year it would affect sixteen students, thirty-two parents, all other children of the households, and it would serve to increase the interest of classmates and teachers. Over a period of years the educational benefit and increased awareness of how our city government operates could touch the lives of hundreds of our young people and their parents."

F. **Glenn Shelton - Complaint relative to fall at Aston Park Center**

Glenn Shelton said he tripped on a 1/2" door jam built on a threshold at Aston Park Center which caused him to have severe medical problems. He contended that this action was caused by negligence on the part of the Building Inspections Department, particularly Mr. Joe Morris. He said this 1/2" door jam built on a threshold is in direct violation of the Building Code which has been brought to the attention of Mr. Joe Morris and the Department of Insurance. He said the City of Asheville should be forced to enforce their ordinances. He said this matter has been brought to the attention of Mr. Morris on several occasions. He said he has also talked with Assistant City Manager Charles Penny and City Manager Doug Bean about this problem on several occasions and no action has been taken.

Mr. Shelton said he has sought recourse from several sources but to no avail. He said he has retained the services of an attorney in Greenville, South Carolina to represent him in his claim.

After discussion, Mayor Bissette suggested that Mr. Shelton have his attorney contact City Attorney Bill Slawter.

G. **Councilman Frank - Draft to Minority and Women Procurement Plan**

Councilman Frank asked that Council members be on the look out for a "second draft" of the Minority and Women Procurement Plan which they should receive in the near future.

H. **Mayor Bissette - Federal Plaza Building**

Mayor Bissette said he and the City Manager had met with several of the Congressmen on Monday along with the Senate Appropriations Committee relative to the proposed Federal Plaza Building. He said the Congressmen said the proposal presented by the City Asheville appears to be a good proposal.

I. **Claims - Marvin Yarborough (Sewer) - Tommy Plummer (Water) - Accudata Services Inc. & The Trophy House (Downtown Development) - Mrs. Heilig (Water) - Francine Costa (Water) - Mrs. William Barkley (Sanitation) - Richard Clark (Water)**

The City Manager presented claims received from Marvin Yarborough, Tommy Plummer, Accudata Services, Inc. & The Trophy House, Mrs. Heilig, Francine Costa, Mrs. William Barkley, and Richard Clark.

Mayor Bissette referred the claims to the City Attorney for investigation and recommendation.

J. **Ralph Bishop - Lottery Sales**

Ralph Bishop again appeared before Council relative to the lottery sales in the City of Asheville.

VII. ADJOURNMENT

Mayor Bissette adjourned the meeting at 7:45 p.m.

MAYOR

CITY CLERK

Tuesday - September 19, 1989 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell Martin and A. Robert York; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Councilman Frank.

APPROVAL OF MINUTES

Mayor Bissette said approval of the minutes of the September 12, 1989 meeting is being withheld pending further review of the minutes.

I. PROCLAMATIONS:

A. **Proclamation - September 24 - 30, 1989 - "Minority Enterprise Development Week"**

Mayor Bissette read the proclamation and presented a copy to Jackie Hallum, President of the Black Business and Professional League. She introduced members of the Minority Enterprise Development Committee that were in attendance and outlined events that would be taking place during Minority Enterprise Development Week.

Announcement - Councilman Wilhelmina Bratton - Elected to Board of Directors of the North Carolina Association of Minority Businesses, Inc.

Mayor Bissette announced that at the last Executive Committee meeting of the North Carolina Association of Minority Businesses, Inc. (NCAMB) Councilman Wilhelmina Bratton was elected to serve on the Board of Directors for a one year term.

B. **Proclamation - October 8 - 14, 1989 - "Fire Prevention Week"**

Mayor Bissette read the proclamation and presented a copy to Charlie Williams from the Fire Prevention Bureau.

C. Presentation of awards to beautification contest winners.

Robin Westbrook, Director of Public Information, said the City has completed the judging for the second annual beautification contest. She said three neighborhoods registered to participate in the beautification contest. She said two judges judged these communities on ten different standards. She said Redwood Forest is the first place winner of $300.00 and Hyannis Drive is the second place winner of $200.00.

Mayor Bissette presented Connie Duncan, Chairman of the Beautification Committee for Redwood Forest, a check for $300.00.

Mrs. Westbrook said the Hyannis Drive representatives were unable to be present and the check would be sent to them.

II. PUBLIC HEARINGS:

III. OLD BUSINESS:

A. Ordinance No. 1789 - Third reading of ordinance to rezone property located at #1 St. Dunstan's Road.

Mayor Bissette was previously excused from participation and vote on this ordinance due to a conflict of interest.

Vice-Mayor Michalove said the Asheville Planning and Zoning Commission on August 2, 1989, reviewed and recommended approval of rezoning Ward 4, Sheet 13, Lot 8 from R-3 Residential District to OI Office Institutional District.

On a roll call vote of 6-0, Ordinance No. 1789 passed on third and final reading, with Mayor Bissette being excused.

Ordinance Book No. 11 Page No. 483

IV. NEW BUSINESS:

A. Report from Community Relations Council on the Police Task Force.

Councilman Bob York, Chairman of the Police Task Force, outlined the events leading up to the establishment of the Police Advisory Committee. He also recognized members of the committee. He said he felt this committee had been very successful during its meetings.

Dwight Mullen, Chairman of the Asheville-Buncombe County Community Relations Council, presented members of Council with a Preliminary Report from the Citizens/Police Advisory Committee. He outlined the attached report stating that the Citizens/Police Advisory Committee should remain intact to address the concerns and recommendations.

Police Chief Gerald Beavers said the Asheville Police Department has pledged to meet the needs of the citizens of Asheville.

Councilman York moved that the Citizens/Police Advisory Committee continue for 120 days and that a report be given to Council at that time. This motion was seconded by Councilman Bratton and carried unanimously.

B. **Resolution No. 89-137 - Resolution authorizing the City Manager to execute Amendment No. 2 to the CH2M Hill Contract for storm water inventory.**

Mayor Bissette said the original Drainage Study Contract with CH2M Hill required 8,900 structures to be inventoried. This number of structures has been completed and an estimated 5,000 structures remain to be inventoried. Amendment No. 2 to the Contract will add the additional 5,000 estimated structures to the Drainage Study at a cost of $134,115.00.

The City Manager said the Storm Water Drainage Task Force will continue with public participation. He said the inventory will be a working document but is not a master plan for solutions to the problems.

Upon motion of Councilman Frank, seconded by Vice-Mayor Michalove, Resolution No. 89-137 was unanimously adopted.

Resolution Book No. 17 Page No. 495

C. **Ordinance No. 1791 - Budget ordinance amendment to appropriate current year CDBG Entitlement Grant Funds.**

Mayor Bissette said the City has recently received its Letter of Credit from HUD in the amount of $1,037,000 for the current year CDBG program. The allocation of these funds was approved by City Council on May 23, 1989 in Resolution Number 89-64. This ordinance will appropriate the funds into the budget.

Councilman Martin moved for the adoption of Ordinance No. 1791. This motion was seconded by Councilman Price.

On a roll call vote of 7-0, Ordinance No. 1791 passed on first and final reading.

Ordinance Book No. 11 Page No. 485

D. Ordinance No. 1792 - Budget ordinance amendment to appropriate funds for McDowell Street Improvements.

Mayor Bissette said the Budget Amendment will provide funds for City's share of right-of-way cost on McDowell Street widening project in excess of the budget amount. Total cost of City's share for right-of-way is $185,058.74. Previous installments to NCDOT have totalled $144,717.50. The budget balance is $20,076.50. Final installment of $40,341.24 is due NCDOT.

Councilman York moved for the adoption of Ordinance No. 1792. This motion was seconded by Councilman Martin.

On a roll call vote of 7-0, Ordinance No. 1792 passed on first and final reading.

Ordinance Book No. 11 Page No. 486

V. CONSENT:

A. Resolution No. 89-138 - Resolution authorizing the Purchasing Director to sell surplus motor vehicles, equipment, and other surplus property at public auction.

Mayor Bissette said various Departments and Divisions have declared items as surplus. This resolution will authorize the Purchasing Director to sell these items at a public auction scheduled for Saturday, October 7, 1989.

Resolution Book No. 17 Page No. 496

B. Resolution No. 89-139 - Resolution authorizing the City Manager to sign an agreement providing for delivery of Fire Protection Services to the Veteran's Administration Medical Center at Oteen.

Mayor Bissette said this is an extension of an October 1, 1987 agreement to provide fire protection services to the Veteran's Administration Medical Center at Oteen. The present contract expires on September 30, 1989. The annual fee is the same as in the 1987 agreement.

C. Scheduling public hearing relative to rezoning property on Wood Avenue off South Tunnel Road for Three Mountaineers for October 10, 1989.

SUMMARY: The Asheville Planning and Zoning Commission on September 6, 1989, reviewed and recommended approval of zoning a portion of Lots 1 and 93, Sheet 7, Ward 13, from HI Heavy Industrial District to LI Light Industrial District, and a portion of Lots 2 and 3, Sheet 7, Ward 13, from R-3 Residential District to LI Light Industrial District.

D. Scheduling public hearing relative to rezoning property located at 1897 Hendersonville Road for William A. Shuford for October 10, 1989.

SUMMARY: The Asheville Planning and Zoning Commission on September 6, 1989, reviewed and recommended approval of zoning a portion of Lot 12, Sheet 110, Ward 7, from R-2 Residential District to CH Commercial Highway District.

E. Announcement that the Council meeting scheduled for September 26, 1989 will be cancelled due to the Primary Election.

Upon motion of Councilman Frank, seconded by Vice-Mayor Michalove, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

A. Reconsiderations - Group Development Actions by the Planning and Zoning Commission

These group development actions were discussed on September 12, 1989; however, a full report was not given at that time. Therefore, Julia Cogburn, Director of Planning, presented the following reports and actions were reconsidered.

Julia Cogburn, Director of Planning, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. The action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. The following action was taken by the Planning and Zoning Commission at their meeting on September 6, 1989:

Asheville High School - Cultural Arts Facility

The Asheville Planning and Zoning Commission on September 6, 1989 reviewed and approved the site plan of the **Asheville High School - Cultural Arts Facility - Group Development** subject to the following contingencies:

1) Approval of erosion control plan by the Planning Department prior to soil disturbance; and 2) Receipt of an approval letter from the Fire Department. No opposition was expressed at the public hearing.

Council accepted the report of the Planning and Zoning Commission and the group development plan was approved as recommended by the Planning and Zoning Commission.

Patton Mini-Storage

The Asheville Planning and Zoning Commission on September 6, 1989 reviewed and approved the site plan of the **Patton Mini-Storage Facility - Group Development** subject to the following contingencies:

1) Approval of fire flows by the Fire Department prior to issuance of a building permit; 2) Approval of the closure of Westwood Place by City Council; 3) Addition to the site plan of a buffer at the intersection of Westwood and Hazel Mill subject to the approval of the Planning Director; and 4) Provision of a dedicated right-of-way to allow turning at the proposed end of Westwood Place subject to approval by the Planning Director.

Councilman York moved to reschedule a public hearing relative to the Patton Mini-Storage Facility Group Development for October 3, 1989. This motion was seconded by Councilman Martin and carried unanimously.

(3) **Haw Creek Heights**

The Asheville Planning and Zoning Commission on September 6, 1989 reviewed and approved the site plan of the **Haw Creek Heights - Group Development** subject to the following contingencies:

1) Approval of an erosion control plan by the Planning Department prior to soil disturbance; and 2) Buffering as required by Asheville Zoning Ordinance.

At the request of Mayor Bissette, Councilman Price moved to excuse Mayor Bissette from participation and vote of the Haw Creek Heights project due to a conflict of interest. This motion was seconded by Councilman Frank and carried unanimously.

Councilman Price moved to rescind the action taken on September 12, 1989 to schedule a public hearing relative to the Haw Creek Heights - Group Development for October 24, 1989 and to accept the recommendation of the Planning and Zoning Commission. This motion was seconded by Vice-Mayor Michalove and carried unanimously.

(4) **Wal-Mart on Tunnel Road - Amendment to Site Plan**

The Asheville Planning and Zoning Commission on September 6, 1989 reviewed and approved the site plan of the **Wal-Mart on Tunnel Road - Amendment to Site Plan - Group Development** subject to the following contingencies:

1) That fill be tested and information provided to City; 2) Buffering as required by Asheville Zoning Ordinance; 3) Replacement of trees that have died.

At the request of Councilman York, Vice-Mayor Michalove moved to excuse Councilman York from participation and vote on the Wal-Mart - Tunnel Road matter. This motion was seconded by Councilman Frank and carried unanimously.

Councilman Martin moved to reschedule a public hearing relative to the Wal-Mart on Tunnel Road - Amendment to Site Plan - Group Development for October 3, 1989. This motion was seconded by Councilman Price and carried unanimously.

Claims - Sarah Reynolds (Streets) - Pat Woody (Sewer) - Edith Hodge (Streets) - Arlene Whisnant (Sanitation)

The City Manager presented claims received from Sarah Reynolds, Pat Woody, Edith Hodge, and Arlene Whisnant.

Mayor Bissette referred the claims to the City Attorney for investigation and recommendation.

ANNOUNCEMENT - Julia Cogburn, Director of Planning - President of the North Carolina Chapter of American Planning Association

The City Manager announced the election of Julia Cogburn, Director of Planning, as the President of the North Carolina Chapter of the American Planning Association.

ANNOUNCEMENT - Annexation of Enka Area - Court Case

The City Attorney said a decision was made today by the North Carolina Court of Appeals to uphold the annexation of the Enka Area.

VII. ADJOURNMENT

Mayor Bissette adjourned the meeting at 5:20 p.m.

MAYOR

CITY CLERK

Tuesday - October 3, 1989 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, and Russell Martin; Acting City Attorney Martha McGlohon; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman A. Robert York
Vice-Mayor Kenneth M. Michalove arrived at 4:45 p.m.
Corporation Counsel William F. Slawter

INVOCATION

The invocation was given by Councilman Bratton.

APPROVAL OF MINUTES

Mayor Bissette said approval of the minutes of the September 19, 1989 meeting is being withheld pending further review of the minutes.

I. PROCLAMATIONS:

A. Proclamation - "Service Corps of Retired Executives Week" - (SCORE) - Week of October 1, 1989

Mayor Bissette read the proclamation and presented a copy to Frank West, Executive Director of Service Corps of Retired Executives (SCORE).

B. Proclamation - "Physicians Assistants Day" October 6, 1989

Mayor Bissette read the proclamation and presented a copy to Jose E. "Ed" Hernandez, Physicians Assistant at the Veterans Administration Medical Center.

C. Proclamation - Month of October, 1989 - "Crime Prevention Month"

Mayor Bissette read the proclamation and presented a copy to Willie Allen, from the Asheville Police Department.

D. Proclamation - October 8-14, 1989 - "Greek Festival Week"

Mayor Bissette read the proclamation and presented a copy to Father Manuel and Nick Angelos from the Holy Trinity Greek Orthodox Church.

E. **Proclamation - October 1-7, 1989 - "Mental Illness Awareness Week"**

Mayor Bissette read the proclamation and presented a copy to Doris Brewer, Mary Lane Travis, and Carolyn Freeman from the Western North Carolina Alliance for the Mentally Ill and the American Psychiatric Association.

F. **UNC-A - Homecoming Weekend - October 7 - 8, 1989**

Councilman Bratton noted that this weekend is Homecoming Weekend for UNC-A.

II. PUBLIC HEARINGS:

A. **Public hearing relative to the amended site plan of the Walmart Development to be located on Tunnel Road.**

Mayor Bissette said the Asheville Planning and Zoning Commission on September 6, 1989, reviewed and approved the amended site plan subject to the following contingencies:

1) That fill be tested and information provided to City;
2) Buffering as required by Asheville Zoning Ordinance; and
3) Replacement of trees that have died.

Mayor Bissette opened the public hearing at 4:34 p.m.

The City Clerk presented the notice to the public and affidavit of publication setting the time and date for the public hearing.

Gerald Green, from the Planning Department, said this project is located on South Tunnel Road and was approved by Council last year. He said the plan has been significantly amended and needs additional approval. He noted the major changes as the entrance being moved; a 5' greenbelt; existing vegetation to remain on the north side of the property; a double row of evergreens located along the water line easement; and the installation of 135' guardrail and fence. He said these changes were necessary because the rock in the soil is less stable than anticipated and more grading was necessary.

There being no further comments, Mayor Bissette closed the public hearing at 4:40 p.m.

Councilman Price moved to approve the amended site plan of the Walmart Development to be located on Tunnel Road subject to the conditions specified by the Planning and Zoning Commission and further that the Planning Director approve the replacement trees and that the trees be similar in type and size to the trees being replaced. This motion was seconded by Councilman Frank and carried unanimously.

B. **Public hearing relative to the site plan of the Patton Mini-Storage to be located on Patton Avenue.**

Mayor Bissette said the Asheville Planning and Zoning Commission on September 6, 1989, reviewed and approved the site plan subject to the following contingencies:

1) Approval of fire flows by the Fire Department prior to issuance of a building permit;
2) Approval of the closure of Westwood Place by City Council;
3) Addition to the site plan of a buffer at the intersection of Westwood and Hazel Mill subject to the approval of the Planning Director; and
4) Provision of a dedicated right-of-way to allow turning at the proposed end of Westwood Place subject to approval by the Planning Director.

Tom Elmore, with the Planning Department, said this project will consist of a 13,600 square foot mini-storage facility. He said the property is zoned Light Industrial and access would be off I-240 and the Westgate access ramp. He said the Fire Department is requiring the installation of a new fire hydrant. He reiterated the Planning and Zoning Commission's conditions for approval. He said landscaping is proposed for the bank.

David Matney, Attorney for the developer, in order to comply with the provision outlined by Planning and Zoning for a dedicated right-of-way to allow turning at the proposed end of Westwood Place, presented a plan showing the dedication and how the developer plans to provide for the turn-a-round although in his client's opinion this action is not necessary.

Mayor Bissette closed the public hearing at 5:10 p.m.

After discussion, Councilman Martin moved to approve the site plan of the Patton Mini-Storage facility to be located on Patton Avenue subject to the conditions outlined by the Planning and Zoning Commission and further that the proposed right-of-way dedication and the construction for the turn-a-round be at the developer's expense and approved by the Planning

Director and the City Attorney. This motion was seconded by Councilman Bratton and carried unanimously.

C. **Public hearing relative to imposing a moratorium on the issuance of permits for off-premises advertising signs within the zoning jurisdiction of the City of Asheville.**

Ordinance No. 1793 - An Ordinance renewing a moratorium on the issuance of permits for off-premise advertising signs

Mayor Bissette said on June 27, 1989, the City Council adopted an ordinance imposing a moratorium on the issuance of permits for off-premises advertising signs within the zoning jurisdiction of the City of Asheville. Council is considering extending the present moratorium.

Mayor Bissette opened the public hearing at 5:15 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Julia Cogburn, Director of Planning, suggested that the moratorium be extending until January 9, 1990 or until Council enacts a new Sign Ordinance.

Mayor Bissette closed the public hearing at 5:18 p.m.

Vice-Mayor Michalove moved for the adoption of Ordinance No. 1793. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1793 passed on first reading.

Vice-Mayor Michalove moved to suspend the rules and proceed to the second reading of Ordinance No. 1793. This motion was seconded by Councilman Martin and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1794 passed on second reading.

Vice-Mayor Michalove moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1793. This motion was seconded by Councilman Martin and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1793 passed on third and final reading.

Resolution Book No. 17 Page No. 487 - 488

III. OLD BUSINESS:

IV. NEW BUSINESS:

A. Motion authorizing the sale of Disposal Parcels 142, 152, 153, 155, and 158 of the East End/Valley Street Community Improvement Program

Mayor Bissette said the Housing Authority has tentatively accepted the bids for several disposal parcels in the East End/Valley Street Community Improvement Program. Council must approve the sale of these parcels.

Parcel	Use	Price	Bid	Redeveloper
142	Res.	3,700	7001.50	Johnnie & Carolyn Crouch
152	Res.	4,200	4,840.00	R & R Associates
153	Res.	3,600	4,202.00	R & R Associates
155	Res.	2,800	3,310.00	Christopher & Diane Robinson
158	Res.	4,100	4,610.00	Cathy Marie Lee

Parcels 152 and 153 are to be developed with single family homes for resale. The eventual owner occupants of the completed homes may apply for the Incentive Housing Subsidy.

Disposal Parcels 142, 155, & 158 are to be developed with single family homes for occupancy by the purchaser under the Incentive Housing Program.

Councilman Bratton questioned whether or not the Neighborhood Committee had reviewed and approved of the sale of these properties.

After discussion, Mayor Bissette said the sale of the Disposal Parcels would be considered at next week's meeting giving the staff an opportunity to answer Councilman Bratton's question.

B. Resolution No. 89-139 - Resolution authorizing the City Manager to sign an agreement with St. Joseph's Hospital, Inc. for the development of a wellness program for City of Asheville employees.

Resolution No. 89-140 - Resolution authorizing the City Manager to sign an agreement with St. Joseph's Urgent Care, Inc. for the provision of medical services to

City of Asheville employees for treatment of work-related injuries.

At the request of Vice-Mayor Michalove, Councilman Price moved to excuse Vice-Mayor Michalove from participation and vote on these issues due to a conflict of interest in that he is employed by St. Joseph's Hospital. This motion was seconded by Councilman Martin and carried unanimously.

Mayor Bissette said these agreements will continue medical treatments and consultation to the infirmary for work related illness and injuries, as well as provide for a new comprehensive wellness program for employees and their families.

The City Manager explained the details of the wellness program contract stating that this will allow the City to collect complete base line data on each employee for $37,000. He said the data would be analyzed and would determine what educational programs are needed for employees. He said wellness programs have been very successful in reducing health care costs.

The City Manager said the agreement with St. Joseph's Urgent Care, Inc. is an extension of a present agreement for medical services to City of Asheville employees for treatment of work-related injuries.

The City Manager said proposals were taken from local hospitals and the proposal from St. Joseph's Hospital and St. Joseph's Urgent Care represent the best service at the best possible cost available within the community at this time.

At the request of Mayor Bissette, Councilman Frank moved to excuse Mayor Bissette from participation and vote of these issues due to a conflict of interest in that his law firm represents St. Joseph's Hospital. This motion was seconded by Councilman Price and carried unanimously.

Upon inquiry of Councilman Bratton, the Acting City Attorney said Councilman Bratton should not be excused from participation and vote on these issues because her husband works for St. Joseph's Hospital, Inc.

Upon motion of Councilman Martin, seconded by Councilman Frank, Resolution No. 89-139 was unanimously adopted.

Upon motion of Councilman Frank, seconded by Councilman Martin, Resolution No. 89-140 was unanimously adopted.

Resolution Book No. 17 Page No. 498

C. **Resolution No. 89 - 141 - Resolution authorizing award of bids received for renovations of City Hall, authorizing City Manager to execute contract with low bidders.**

Mayor Bissette said this resolution will authorize the award of bids for renovations to City Hall.

John Cort, with Wood and Cort, Architects, gave a detailed background report of the renovations planned for the City Hall Building.

Mr. Cort said their recommendation would be to accept the base bids plus all alternates as follows:

General Contract:		
Jerry Payne Construction Company	-	$1,814,678
Plumbing Contract:		
Moser, Inc.	-	355,380
Mechanical Contract:		
Gene Cox Mechanical Contractor	-	1,100,210
Electrical Contract:		
Zoerb Electric Company	-	500,000

Upon inquiry of a citizen, Mr. Cort said the firms selected have a long history and are highly recommended. He reviewed projects the contractors have recently completed.

At the request of Mayor Bissette, Councilman Price moved to excuse Mayor Bissette from participation and vote on the City Hall bids since his law firm represents Moser, Inc. This motion was seconded by Councilman Frank and carried unanimously.

Councilman Bratton told Mr. Cort that although it is not a requirement she would like to request that the contractors consider using minority and women businesses as subcontractors whenever possible. She said she would furnish him with the address of the North Carolina Association of Minority Businesses who could supply the contractors with a list of minority and women businesses.

Upon inquiry of Vice-Mayor Michalove, Mr. Cort said the construction period for the project is 18 months and a $500 per day penalty provision is included.

John Walsh spoke in opposition to funding renovations to the City Hall Building stating that the City should provide more funds to properly staff the Building Inspection Division.

Upon inquiry of Liddy Sidnick, Mr. Cort said provisions have been made for the possibility of asbestos exposure during the construction period. He said the contract has a contingency for asbestos removal and they will be monitoring air samples during construction.

Upon motion of Councilman Price, seconded by Councilman Martin, Resolution No. 89-141 was unanimously adopted.

Resolution Book No. 17 Page No. 499

D. **Resolution No. 89-142 - Resolution authorizing execution of instruments for funding the City Hall renovations and computer upgrade projects.**

Mayor Bissette said the City needs to fund its computer upgrade and City Hall renovation projects in an amount not to exceed $4,600,000.

The City Manager said Wachovia Bank and Trust Company would be the financing agency at a 6.9 percent interest rate. He said $1.3 would be used for the computer upgrade projects and $3.3 would be used for City Hall renovations.

Upon motion of Vice-Mayor Michalove, seconded by Councilman Martin, Resolution No. 89-142 was unanimously adopted.

Resolution Book No. 17 Page No. 500

E. **Ordinance No. 1794 - Budget Amendment to establish capital project budget for City Hall Project.**

Mayor Bissette said this amendment establishes a capital project for City Hall renovations in the amount of $4,600,000. Funding will be provided by $1,300,000 cash and $3,300,000 long term financing.

Vice-Mayor Michalove moved for the adoption of Ordinance No. 1794. This motion was seconded by Councilman Frank.

On a roll call vote of 6-0, Ordinance No. 1794 passed on first and final reading.

Ordinance Book No. 11 Page No. 489

V. CONSENT:

A. Resolution No. 89-143 - Resolution appointing members to the Asheville Tree/Greenway Commission.

SUMMARY: This resolution will appoint Rosa Walker, Robert Hope and Will Neville as members of the Asheville Tree/Greenway Commission.

Resolution Book No. 17 Page No. 501

B. Scheduling public hearing relative to Sign Ordinance on October 24, 1989 at the Asheville Civic Center Banquet Room at 5:00 p.m.

SUMMARY: The Asheville Planning and Zoning Commission on September 27, 1989 moved to forward their recommendations to City Council in the form of an addendum along with the complete, unabridged text of the Asheville Sign Commission's "Draft Sign Ordinance".

Upon motion of Councilman Frank, seconded by Councilman Martin, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

A. Statement by Mayor relative to Downtown Design Review

Mayor Bissette said he had received a letter from G. Carroll Hughes, Chairman of the Downtown Design Review Committee, and Robert J. Carr, Chairman of the Downtown Commission, requesting that the current Design Review Guidelines scheduled for November be postponed until the first quarter of 1990 for the following reasons: 1) Staff has just been hired for this position and has had little time to prepare the documents; 2) A little more time will provide them with a larger base of information to evaluate the guidelines.

B. Resolution No. 89-143 - Resolution authorizing the Mayor to execute an option to purchase and to accept a deed, if the option to purchase is exercised, for property to serve the Asheville Fire Department on Old Haywood Road.

The City Manager presented a resolution for the lease with the option to purchase a parcel of land in the vicinity of Old Haywood road and Patton Avenue for the relocation of the West Asheville Fire Station #6. This relocation is necessary for the West Annexation area.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 89-143 was unanimously adopted.

CLAIMS - LAURA WEST (SEWER) - G. EDITH ROBINSON (WATER) - SONJA DUCKER (WATER) - MRS. MARGARET WIMBERLY (WATER) - ERNEST HOLBERT (FIRE) - WILDON FISHER, JR. (SEWER) - AMOS HARWOOD, JR. (STREETS) - R. L. SURRETT (WATER) - CAROLINA BUILDING ASSOCIATES OF ASHEVILLE, INC. (STREETS) - ELIZABETH PARKER (WATER) - ROBERT BATTLE (WATER) - TERRY RAMSEY (SEWER) - JACKIE GOUGE (SEWER)

The City Manager presented claims received from Laura West, G. Edith Robinson, Sonja Ducker, Mrs. Margaret Wimberly, Ernest Holbert, Wildon Fisher, Jr., Amos Harwood, Jr., R. L. Surrett, Carolina Building Associates of Asheville, Inc., Elizabeth Parker, Robert Battle, Terry Ramsey, and Jackie Gouge.

Mayor Bissette referred the claims to the City Attorney for investigation and recommendation.

LENI SITNICK - COMMENTS RELATIVE TO TRANSPORT OF NUCLEAR WASTE-INTEREST IN ASHEVILLE TREE/GREENWAY COMMISSION

Leni Sitnick asked that Council begin looking into establishing regulations for the transport of nuclear waste through Asheville and the impact this could have on the community.

Councilman Price asked the City Manager to check with the Director of Civil Preparedness on the options that are available relative to regulations for the transport of nuclear waste. She also requested that the staff check with other cities to see what they are doing about transportation of nuclear waste.

Ms. Sidnick also expressed an interest in serving on the Asheville Tree/Greenway Commission.

RALPH BISHOP - PRIZE FIGHTING AT THE ASHEVILLE CIVIC CENTER

Ralph Bishop said the prize fighting at the Asheville Civic Center is in violation of North Carolina General Statute 14.271.

Mayor Bissette said the staff would look into this matter and report back to Mr. Bishop at next week's Council meeting.

VII. ADJOURNMENT

Mayor Bissette adjourned the meeting at 6:45 p.m.

MAYOR

CITY CLERK

Tuesday - October 10, 1989 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell Martin and A. Robert York; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Councilman Martin.

APPROVAL OF MINUTES

Mayor Bissette said approval of the minutes of the September 12, 1989 and September 19, 1989 are being withheld pending further review.

Mayor Bissette announced the approval of the minutes of the October 3, 1989 meeting with minor typographical changes.

I. PROCLAMATIONS:

A. Presentation of Certificates of Appreciation to volunteer chaplains of the Asheville Police Department.

Mayor Bissette said there are local ministers who volunteer their time to serve with the Asheville Police Department. They are on call to deliver death messages, work with families of people in injury accidents, meet special spiritual needs of people encountered by police, and serve as counselors and advisors to police officers and employees. They serve at an on-call basis, being called out at all hours of the day and night, for no pay.

Mayor Bissette presented Certificates of Appreciation to Reverend Howard Shockley, Reverend L. C. Ray, Reverend E. W. Hollifield, Reverend Don Furniss, Reverend Pete DeSaix, Reverend Clarence A. Low, and Reverend Ron Brown.

B. Proclamation - "Disability Employment Awareness Month" - October, 1989

Mayor Bissette read the proclamation and presented a copy to Debra Whitson, with the Muscular Dystrophy Association and Marilyn Williams with the Employment Security Commission.

C. In Memory of - Leah Minor Butler

Vice-Mayor Michalove read a memorial to Leah Minor Butler, Past Director of the Hillcrest Headstart Program; Service to the Department of Social Service; Professor at Warren Wilson College and Organist for the St. Lawrence Catholic Church. He said the City of Asheville recognizes the great contributions made by Leah Minor Butler to this City, and offers to her family this sincere expression of condolence.

II. PUBLIC HEARINGS:

A. Public hearing relative to rezoning property - Three Mountaineers.

Ordinance No. 1795 - An Ordinance amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville," as amended, petition of William Thompson, Agent for William Ballard, and George Davis, Agent for Three Mountaineers, property located on Wood Avenue off South Tunnel Road.

Mayor Bissette said the Asheville Planning and Zoning Commission on September 6, 1989, reviewed and recommended approval of zoning a portion of Lots 1 and 93, Sheet 7, Ward 13, from HI Heavy Industrial District to LI Light Industrial District, and a portion of Lots 2 and 3, Sheet 7, Ward 13, from R-3 Residential District to LI Light Industrial District.

Mayor Bissette opened the public hearing at 4:28 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Carol Alberice, from the Planning Department, outlined the particulars of the rezoning request stating that this parcel is vacant and contains 41 acres. She noted that the surrounding zoning is Heavy Industrial and property in the immediate vicinity is used for industrial and multi-family residential; access to the property is from S. Tunnel Road and Wood Avenue; a portion of the property is in the flood fringe area; additional buffer is remaining to buffer the residential properties; the 2010 plan shows this property as medium density and Light Industrial is encouraged along Swannanoa River Road; notice had been received from James L. Hart of 142 Glendale Avenue requesting that his property be included in the rezoning; and the low-lying flood fill

area will be left undeveloped. She showed a video of the area proposed to be rezoned.

Charlie Putman, petitioner, said they have been working the Corps of Engineers and an environmental analysis was conducted on the property and it was determined that they can not develop the conservation area.

Mayor Bissette closed the public hearing at 4:51 p.m.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Martin moved for the adoption of Ordinance No. 1795. This motion was seconded by Vice-Mayor Michalove.

On a roll call vote of 7-0, Ordinance No. 1795 passed on first reading.

B. Public hearing relative to rezoning property - Shuford, petitioner.

Ordinance No. 1796 - An Ordinance amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville," as amended, petition of William A. Shuford, property located at 1897 Hendersonville Road.

Mayor Bissette said the Asheville Planning and Zoning Commission on September 6, 1989, reviewed and recommended approval of zoning a portion of Lot 12, Sheet 110, Ward 7, from R-2 Residential District to CH Commercial Highway District.

Mayor Bissette opened the public hearing at 4:54 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Carol Alberice, from the Planning Department, said this rezoning would only move an existing Commercial Highway line 65' into residential property. She said the parcel contains 10.7 acres and fronts on US 25. She showed a video of the property requested to be rezoned.

William Shuford, petitioner, requested approval of the rezoning request.

Mayor Bissette closed the public hearing at 5:02 p.m.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman York moved for the adoption of Ordinance No. 1796. This motion was seconded by .

On a roll call vote of 7-0, Ordinance No. 1796 passed on first reading.

III. OLD BUSINESS:

IV. NEW BUSINESS:

A. **Motion authorizing the sale of Disposal Parcels 142, 152, 153, 155, and 158 of the East End/Valley Street Community Improvement Program.**

Mayor Bissette said the Housing Authority has tentatively accepted the bids for several disposal parcels in the East End/Valley Street Community Improvement Program. Council must approve the sale of these parcels.

Parcel	Use	Price	Bid	Redeveloper
142	Res.	3,700	7001.50	Johnnie & Carolyn Crouch
152	Res.	4,200	4,840.00	R & R Associates
153	Res.	3,600	4,202.00	R & R Associates
155	Res.	2,800	3,310.00	Christopher & Diane Robinson
158	Res.	4,100	4,610.00	Cathy Marie Lee

Parcels 152 and 153 are to be developed with single family homes for resale. The eventual owner occupants of the completed homes may apply for the Incentive Housing Subsidy.

Disposal Parcels 142, 155, & 158 are to be developed with single family homes for occupancy by the purchaser under the Incentive Housing Program.

Councilman Bratton said she had talked with David Jones, Executive Director of the Housing Authority, and her questions relative to the sale of these lots had been answered.

Councilman Bratton moved to accept the recommendation of the Housing Authority for the sale of Disposal Parcels 142, 152, 153, 155, and 158 of the East End/Valley Street Community Improvement Program. This motion was seconded by Vice-Mayor Michalove and carried unanimously.

C. Ordinance No. 1797 - Budget Amendment to provide funding for streetscape project.

Mayor Bissette said this budget amendment will provide an appropriation in the amount of $51,900 to acquire trash receptacles, benches and trees for Downtown Streetscape improvements.

Councilman Bratton moved for the adoption of Ordinance No. 1797. This motion was seconded by Councilman Frank.

On a roll call vote of 7-0, Ordinance No. 1797 passed on first and final reading.

Ordinance Book No. 12 Page No. 3

V. CONSENT:

A. Resolution No. 89-145 - Resolution authorizing the execution of a Municipal Agreement with the N. C. Department of Transportation for reinspection of bridges on the City of Asheville street system.

SUMMARY: The Federal Highway Administration Bridge Replacement and Rehabilitation Program requires that all bridges be inspected on a schedule not to exceed two years. The North Carolina Department of Transportation allows the Municipalities in North Carolina to include Bridges on the Municipal Street System in the State's Inspection Program. The Municipality reimburses the State the 20% share of these costs.

Resolution Book No. 18 Page No. 1

B. Scheduling public hearing relative to Albemarle Park Historic District for October 31, 1989.

SUMMARY: The Asheville Planning and Zoning Commission on September 27, 1989, again reviewed the request of the Albemarle Park-Manor Grounds Association, through the Historic Resources Commission, that their area be designated a local historic district. The Commission again voted to recommend approval of the designation and to exclude the property on Charlotte Street south of the Gatehouse zoned CG Commercial General. An appeal has been filed regarding the Commission's recommendation to exclude the property on Charlotte Street.

Upon motion of Vice-Mayor Michalove, seconded by Councilman Price the consent agenda was unanimously approved.

C. **COUNCIL MEETING - OCTOBER 17, 1989 - NO MEETING**

Mayor Bissette said the meeting scheduled for October 17, 1989 has been cancelled due to the North Carolina League of Municipalities Convention.

VI. OTHER BUSINESS:

A. **Report from Asheville Transit Authority - Skyland Bus Route**

Tom Tomlin, Chairman of the Asheville Transit Authority, presented members of Council with a report on the trial bus route in the Skyland Annexation area from July 1, 1989 to October 31, 1989. He said revenue for this route is ranging from .05¢ per mile to .11¢. He said the average revenue for the overall city is 70¢ per mile. He said a decision should be made whether to continue/discontinue this service prior to the expiration of the trial period. He said the request for bus service was originated from the residents of Givens Estate; however, the residents have not been using the service.

Mr. Tomlin said the report would be given to the Asheville Transit Authority at their meeting on October 11, 1989.

After discussion, it was decided that Council would make a decision whether or not to continue the service after receiving a recommendation from the Transit Authority.

B. **Resolution No. 89-146 - Resolution authorizing the Mayor to execute an agreement for the purchase of property from the Estate of J. W. Snow. (for Motor Transport Division)**

The City Manager presented a resolution authorizing the Mayor to execute an agreement for the purchase of property from the Estate of J. W. Snow. He said the property is adjacent to the existing City service station and will enhance the operation of the Motor Transport Division of the City of Asheville.

Upon motion of Councilman Frank, seconded by Councilman York, Resolution No. 89-146 was unanimously adopted.

Resolution Book No. 18 Page No. 2

C. **Group Development Actions by the Planning and Zoning Commission**

Gerald Green, from the Planning Department, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. The action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. The following action was taken by the Planning and Zoning Commission at their meeting on October 4, 1989:

Ingle's - Merrimon Avenue - Amendment to Landscape Plan

The Asheville Planning and Zoning Commission on October 4, 1989 reviewed and approved the site plan of the **Amendment to the Landscape plan for Ingle's - Merrimon Avenue** with the requirement that the Developer locate three trees near front (freestanding) sign location. Recommendation does not include installation of sidewalk along Beaverdam Road in accordance with original recommendation to City Council.

There were several individuals at the Planning and Zoning Commission meeting asking that the trees in the area be protected.

Councilman Price moved to schedule a public hearing relative to the amendment to the Landscape Plan for Ingle's - Merrimon Avenue for October 24, 1989. This motion was seconded by Vice-Mayor Michalove and carried unanimously.

Asheville-Buncombe Technical Community College - Addition and renovation of Learning Resource Center

The Asheville Planning and Zoning Commission on October 4, 1989 reviewed and approved the site plan of the **Asheville-Buncombe Technical Community College - Addition and renovation of Learning Resource Center** subject to the following contingencies:

1) Approval by the Planning Director of an agreement to construct a facility to provide adequate water supply for fire protection prior to issuance of a building permit; and
2) Staff review of application for building permit for conformance of those drawings with approved drawings.

Councilman Bratton moved to schedule a public hearing relative to the Asheville-Buncombe Technical Community College - Addition and renovation of Learning Resource Center for October 31, 1989. This motion was seconded by Councilman Price and carried unanimously.

(3) **K-Mart Plaza on Tunnel Road - Addition of Pizza Hut Take-Out**

The Asheville Planning and Zoning Commission on October 4, 1989 reviewed and approved the site plan of the K-Mart Plaza on Tunnel Road - Addition of Pizza Hut Take-Out subject to the following contingencies:

1) Approval of an erosion control plan by the Planning Department prior to soil disturbance; and 2) Compliance with required setbacks; and 3) City Council granting a parking variance if needed.

Councilman Price moved to schedule a public hearing relative to the site plan of K-Mart Plaza on Tunnel Road - Addition of Pizza Hut Take-Out for October 31, 1989. This motion was seconded by Councilman Frank and carried unanimously.

CLAIMS - BETTY ABSHIRE (SEWER) - GARTH ATKINS (SEWER) - GLENN SHELTON (INSPECTIONS) - DANA OSBORNE (POLICE) - J. D. SPARKS (WATER) - MARGARET PRICE (WATER) - TABBY MPOFU (POLICE)

The City Manager presented claims received from Betty Abshire, Garth Atkins, Glenn Shelton, Dana Osborne, J. D. Sparks, Margaret Price, and Tabby Mpofu.

Mayor Bissette referred the claims to the City Attorney for investigation and recommendation.

LAWSUIT - SHIRLEY W. BROWN AND BOBBY BROWN - PERSONAL INJURY

The City Manager said the city was served with a lawsuit on October 3, 1989 involving Shirley W. Brown and Bobby Brown relative to a personal injury from a fall in a water meter hole.

Mayor Bissette referred the lawsuit to the City Attorney for investigation and recommendation.

SIGN ORDINANCE - WORK SESSION - OCTOBER 23, 1989

Mayor Bissette said the Council will be having another Sign Ordinance Work Session on October 23, 1989.

RALPH BISHOP - PRIZE FIGHTING AT CIVIC CENTER - BUS SERVICE TO SKYLAND

The City Manager presented Mr. Bishop with a report relative to prize fighting at the Civic Center.

Mr. Bishop said the residents of Skyland should receive bus service since they have been annexed into the city and pay taxes.

VII. ADJOURNMENT:

Mayor Bissette adjourned the meeting at 6:00 p.m.

MAYOR

CITY CLERK

Tuesday - October 24, 1989 - 4:00 P.M.

Regular Meeting - ASHEVILLE CIVIC CENTER - BANQUET HALL

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Russell Martin, and A. Robert York; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Wilhelmina Bratton - Out of Town

INVOCATION

The invocation was given by Councilman Martin.

APPROVAL OF MINUTES

Mayor Bissette announced the approval of the "revised" minutes of the September 12, 1989 and September 19, 1989 meetings and the minutes of the October 10, 1989 meeting as submitted.

I. PROCLAMATIONS:

A. Resolution No. 89-147 - Resolution recognizing Jackie Graves, a recent City of Asheville retiree.

Mayor Bissette said Jackie Graves has been employed with the City of Asheville since August, 1976. He was a firefighter in the Asheville Fire Department for 13 years before receiving a disability retirement.

Mayor Bissette said this resolution was previously distributed to members of Council and would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman York, seconded by Councilman Frank, Resolution No. 89-147 was unanimously adopted.

Resolution Book No. 18, Page 3

B. Resolution No. 89-148 - Resolution recognizing Charles Creasman, a recent City of Asheville retiree.

Mayor Bissette said Charles Creasman has been employed with the City of Asheville since September, 1974. He was a machine equipment operator in the Water Department for 15 years before receiving a disability retirement.

Mayor Bissette said this resolution was previously distributed to members of Council and would not be read in its entirety unless there was a specific request to do so.

Upon motion of Vice Mayor Michalove, seconded by Councilman Martin, Resolution No. 89-148 was unanimously adopted.

Resolution Book No. 18, Page 4

ANNOUNCEMENT BY MAYOR BISSETTE - ABSENCE OF COUNCILMAN BRATTON

Mayor Bissette said Councilman Bratton's job has required her to be out of town and unable to attend today's Council Meeting. However, he said, Councilman Bratton has asked him to announce that she will listen to the tapes of the public hearing relative to the Sign Ordinance in their entirety.

C. Proclamation - "United Nations Day" - October 24, 1989

Mayor Bissette read the proclamation and presented it to Ed Torrence, President of the WNC United Nations Association.

II. PUBLIC HEARINGS:

A. Public hearing relative to amendment to Landscape Plan for Ingle's - Merrimon Avenue.

Mayor Bissette said the Asheville Planning and Zoning Commission on October 4, 1989, reviewed and approved the revised landscape plan with the requirement that the developer locate three trees near front (freestanding) sign location. Recommendation does not include installation of sidewalk along Beaverdam Road in accordance with original recommendation to City Council.

Mayor Bissette opened the public hearing at 4:15 P.M.

The City Clerk presented the notice to the public and the affidavit of publication.

Gerald Green of the Planning Department showed a video and answered questions from Members of City Council. He said the major revisions to the site plan were the omission of the sidewalk on Beaverdam Road and the relocation of trees along the front.

Mayor Bissette closed the public hearing at 4:30 P.M.

Vice Mayor Michalove moved to approve the amendment to the Landscape Plan for the Ingle's/Merrimon Avenue Store as recommended by the Planning and Zoning Commission. This motion was seconded by Councilman York and carried unanimously.

III. OLD BUSINESS:

A. Ordinance No. 1796 - Second reading of an ordinance amending the zoning of property located at 1897 Hendersonville Road and presently identified as a portion of Lot 12 of Sheet 110 of Ward 7 of the Buncombe County Tax Maps.

Mayor Bissette said the Asheville Planning and Zoning Commission on September 6, 1989, reviewed and recommended approval of zoning a portion of Lot 12, Sheet 110, Ward 7, from R-2 Residential District to CH Commercial Highway District. He said a public hearing was held and this ordinance passed on first reading on October 10, 1989.

Mayor Bissette said this ordinance was previously distributed to members of Council and would not be read in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1796 passed on second reading.

William Shuford, petitioner of the rezoning, requested that Council proceed with the third and final reading of the ordinance.

Vice Mayor Michalove explained that it was the policy of City Council to announce at the public hearing if the City Council intended to have more than one reading of an ordinance at any meeting.

B. Ordinance No. 1795 - Second reading of an ordinance amending the zoning of property located partially along Wood Avenue and presently identified as portions of Lots 1, 2, 3, and 93 of Sheet 13 of Ward 7 of the Buncombe County Tax Maps.

Mayor Bissette said the Asheville Planning and Zoning Commission on September 6, 1989, reviewed and recommended approval of zoning a portion of Lots 1 and 93, Sheet 7, Ward 13, from HI Heavy Industrial District to LI Light Industrial District, and a portion of Lots 2 and 3, Sheet 7, Ward 13, from R-3 Residential District to LI Light Industrial District. He said a public hearing was held and this ordinance passed on first reading on October 10, 1989.

Mayor Bissette said this ordinance was previously distributed to members of Council and would not be read in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1795 passed on second reading.

IV. NEW BUSINESS:

A. Sign permit for Rhapsody's Restaurant at 35 Tunnel Road.

Mayor Bissette said the applicant is requesting to place a 12' x 2' wall sign on the front of the building and a 12' x 2' wall sign on the rear of the building. Applicant is also requesting approval for the placement of a 6' x 6' logo sign on the front of the building. Signs are to be placed within 600' of a right-of-way of a limited access highway and must be approved by City Council.

Julia Cogburn, Planning Director, said Rhapsody's Restaurant is zoned Commercial Highway and is located off Tunnel Road in a building adjacent to the Old Bishop's Steak House. She said this sign requires Council approval since it will be situated within 600 feet of a right-of-way of a limited access highway.

Councilman Martin moved to approve the sign permit for Rhapsody's Restaurant to place a 12 ft. x 2 ft. wall sign in the front of the building, a 12 ft. x 2 ft. wall sign on the rear of the building, and to place a 6 ft. x 6 ft. logo sign on the front of the building. This motion was seconded by Vice Mayor Michalove and carried unanimously.

B. **Resolution 89-149 - Resolution authorizing the City Manager to execute a contract with Terry Brothers Construction Company, Inc. for the construction of the Haw Creek Annexation area Water Line and Wastewater Line Extensions.**

Mayor Bissette said this project involves the construction of the water and wastewater collection lines in the Haw Creek Annexation Area. Bids were opened on August 31, 1989 with Terry Brothers Construction Company, Inc. being the lowest bidder in the amount of $686,009.85.

Mayor Bissette said this resolution was previously distributed to members of Council and would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 89-149 was unanimously adopted.

Resolution Book No. 18, Page 5

C. **Resolution No. 89-150 - Resolution authorizing the City Manager to execute a contract with Buckeye Construction Company, Inc. for the construction of the South Area Annexation Water Line and Wastewater Line Extensions - Phase I.**

Mayor Bissette said this project involves the construction of the water and wastewater collection lines in the South Area Annexation Area. Bids were opened on September 21, 1989 with Buckeye Construction Company, Inc. being the lowest bidder in the amount of $810,774.14.

Mayor Bissette said this resolution was previously distributed to members of Council and would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Frank, seconded by Councilman Martin, Resolution No. 89-150 was unanimously adopted.

Resolution Book No. 18, Page 6

V. CONSENT: - ITEMS NOT CONSIDERED NOR APPROVED:

NOTE: Mayor Bissette announced that Items A, B, and D would be deleted from consideration under the Consent Agenda and would be considered at a future Council Meeting.

A. Resolution authorizing execution of an agreement with Roger A. Derrough, Jr., Owner of Dinner for the Earth, for construction of a parking lot facility on state highway right-of-way.

B. Resolution authorizing execution of a construction agreement with the North Carolina Department of Transportation allowing placement of the parking lot on State Highway right-of-way.

D. Resolution authorizing execution of an interlocal agreement with the County of Buncombe and the Buncombe County Judicial System to establish the Buncombe County Association of Criminal Justice Agencies.

NOTE: THESE ITEMS (A, B, AND D) not considered nor voted on by City Council.

* *

V. CONSENT: - ITEMS CONSIDERED AND APPROVED:

C. Resolution No. 89-151 - Resolution authorizing the City Manager to execute a contract with T. R. Driscoll, Incorporated for roof repairs to the Auditorium and Lobby of the Asheville Civic Center.

SUMMARY: This project involves the repairs to the Auditorium roof and the Lobby roof of the Asheville Civic Center.

Resolution Book No. 18, Page 7

E. Resolution No. 89-152 - Resolution authorizing the City Manager to execute agreements to repair the Riverside Drive Sanitary Sewer.

SUMMARY: This resolution would declare this project an "emergency" under N. C. General Statutes to permit outside contractors to repair a collapsed 24-inch sewer interceptor on Riverside Drive.

Resolution Book No. 18, Page 8

Upon motion of Councilman Frank, seconded by Councilman Price, the Consent Agenda - Items C and E - were unanimously adopted.

VI. OTHER BUSINESS:

A. Motion - Schedule Public Hearing Relative to Amended Site Plan for River Ridge Market Place

Councilman Price moved to schedule a public hearing relative to the amended site of River Ridge Market Place for November 14, 1989. This motion was seconded by Vice Mayor Michalove and carried unanimously.

B. Recommendation of Asheville Transit Authority Relative to Route #10 - Skyland Route

Mayor Bissette said the Skyland Bus Route initiated approximately 4 months ago has not resulted in much ridership. He said the Council had received a report from the Asheville Transit Authority in which the Authority recommended that the City Council continue the route for another two months before discontinuing the route if ridership did not pick up. He said the City is losing approximately $10,000 a month, and this is only subsidized 50 percent by the Federal Government.

Vice Mayor Michalove moved to continue the Skyland Route until December 31, 1989, and requested that the Asheville Transit Authority provide the City Council with weekly reports on ridership. This motion was seconded by Councilman Price and carried by a vote of 5-1, with Councilman York voting "No".

C. Ordinance No. 1798 - Budget Ordinance Amendment for Roof Repairs on Asheville Civic Center

The City Manager said this budget ordinance amendment will provide funding necessary to repair the Auditorium roof and the lobby roof of the Asheville Civic Center. He said $90,000 has been budgeted for these repairs.

Council Price moved for the adoption of Ordinance No. 1783. This motion was seconded by Councilman Martin.

On a roll call vote of 7-0, Ordinance No. 1798 passed on first and final reading.

Ordinance Book 12, Page 4

D. CLAIMS - BRUCE STAHLE (WATER), E. C. HYERS (WATER), DAPHNE DIRLAM (FIRE), ERNESTINE OWENS (SANITATION), KAYE LYTLE (WATER), PATRICIA HORTON (PARKS), BASS & ROYSTER (SEWER), PAT SOUTHERLAND (WATER), AND GLEYN'S HALLMARK SHOP (SEWER)

The City Manager reported claims received from Bruce Stahle (Water), E. C. Hyers (Water), Daphne Dirlam (Fire), Ernestine Owens (Sanitation), Kaye Lytle (Water), Patricia Horton (Parks), Bass & Royster (Sewer), Pat Southerland (Water), and Gleyn's Hallmark Shop (Sewer).

Mayor Bissette said these claims have been referred to the City's appropriate insurers for investigation, and that permanent records of the claims will be maintained by the Legal Services Division.

E. **Councilman Price - Request for Report on Notification Procedures Used by Board of Adjustment in Notifying Property Owners**

Councilman Price requested a copy of the procedure used to notify property owners of matters to be considered by the Board of Adjustment. She said this would provide an opportunity for Council Members to review the procedures and make any revisions that may be desired. She said sometimes property owners located across the street are more affected than adjacent property owners.

VII. RECESS:

Mayor Bissette called for a 5-minute recess at 4:55 P.M.

Mayor Bissette called the meeting back to order at 5:00 P.M.

VIII. PUBLIC HEARING: - 5:00 P.M

A. **Public hearing relative to amendment to Article 9 - Sign Regulations of the Code of Ordinances of the City of Asheville.**

Mayor Bissette said the Asheville Planning and Zoning Commission on September 27, 1989 moved to forward their recommendations to City Council in the form of an addendum along with the complete, unabridged text of the Asheville Sign Commission's "Draft Sign Ordinance."

Mayor Bissette said we are gathered together today for a public hearing on the recommendations of the Planning and Zoning Commissions for a new Sign Ordinance for the City of Asheville. He requested those desiring to speak to sign a speaker's card if they had not already done so. He said that individual speakers would be allowed three minutes and anyone speaking as the sole representative of a group would be allowed six minutes.

Mayor Bissette opened the public hearing at 5:05 P.M.

The City Clerk presented the notice to the public and the affidavit of publication.

Mayor Bissette read the resolution establishing the Asheville Sign Commission and setting forth the responsibilities of the Commission.

Jerry Grant, Chairman of the Asheville Sign Commission, requested that Council adopt the ordinance as drafted by the Sign Commission.

Mr. Grant said the Sign Commission had spent hours and days over the past 13 months agonizing and deliberating over every item of the Sign Ordinance. He said enforcement had been a key question, but that the majority of the Commission had agreed that the existing ordinance was unworkable and needed changing. He said the ordinance presented was a workable ordinance and requested that City Council adopt it. However, Mr. Grant said although he had no objections to the on-premise changes recommended by the Planning and Zoning Commission, he cannot agree to the off-premise changes recommended, which increases the size and number of billboards over the Sign Commission draft. Mr. Grant said he felt if the Sign Ordinance were put to a referendum, the citizens of Asheville and Buncombe County would vote to completely eliminate billboards. He said he would not like to see the needs of our business community ignored either in on- or off-premise advertising. However, he said, he thought all of us could live with smaller and fewer signs.

Frank Graham, representing Naegele Outdoor Advertising Company, stated that since Mayor Bissette's law firm represents the Asheville Citizen-Times Newspaper and WLOS-TV Station that it might give an appearance of a conflict of interest since both medias would stand to gain financially if the proposed ordinance were passed. For this reason, Mr. Graham requested that the Mayor refrain from the discussion and vote on the Sign Ordinance.

Upon a request from Mayor Bissette, City Attorney Bill Slawter said in his opinion, the Mayor's own personal financial interest would not be involved in voting on the Sign Ordinance.

Mr. Graham said the following points were not addressed by the Sign Commission:

(1) At no time was any evidence presented concerning the cost to businesses for removal or replacement of signs and that was requested.

(2) No survey was ever done to see how many businesses would be affected by the substantial changes in the size and number of on-premise signs.

(3) At no time did any representative of the City approach the off-premise businesses and inquire what effect their proposals would have on their businesses. This has never been done.

(4) The City employees admitted that the present Sign Ordinance had never been enforced and that they had no idea what the City would look like if it were enforced.

(5) No study was ever done to ascertain what, if any, economic benefit the proposed ordinance would have on the City of Asheville.

(6) The City of Asheville's study cost $50,000 and was done in the Fall of 1988 regarding revitalization of downtown specifically stated that off-premise advertising was good for business. This apparently has been totally disregarded and was never brought up in the Sign Commission studies.

(7) It is apparent that little or no thought has gone into this proposed ordinance other than the single motivation to reduce the number and size of signs within the City limits irrespective of the effect it will have on the businesses within the City and the tax base that the City relies on to pay for City services.

(8) The City has failed to consider the cost of potential lawsuits that are going to occur because of what it is contemplating doing.

Mr. Graham recommended that the City Council put the proposed ordinance on a back burner, that the present ordinance be enforced for a period of time - long enough to see what effect that will have, and that a new and impartial committee be appointed that truly represents the interests of all the people of Asheville to review this proposal along with the effects enforcement will have had upon it.

The following additional people spoke "for" or "against" the proposed Sign Ordinance:

Against	For
John E. Stewart	Roger McGuire
George Morosani	Don Martell
Fred Rutledge	Barry Olen
Don Noakley	Scott Lundy
Mike Summey	Leni Sitnick
Ben Pace	Pat McGuire
Bob Lawrence, Jr.	Jim Groce
Gerald Candler	John W. Brooke
Ralph Bishop	Bettz Burr
Ruth H. Habenicht, Letter/Carl Ricker	Jane Bingham
Jerry Hobbs	Doug Campbell
Becki Walker	Dennis Hodgson
George Jensen	Frank Martin
Lewis Clay	Phil Carson
Otis Ware	Barbara Field
Ed Gore	Susan Fisher
Gary Lowe	Jeanne Warner
Darrell Merchant	Rich Mathews
Paul Garrison	Shirley Berdie
Jack Kasey	Helen Guernsey
Jan Davis	Bob Carr
Nancy Davis	Tom Kuhn
Scott King	Lin Brown
Clarence Benton	Robert Griffin
Ann Cross	George Clark

Against	For
Reynolds Calvert	David Gantt
Fred Robinson	James J. Skalski
Bob Ledford	Jane Gianvito
Thomas L. Thrash	
Peter Hall	
Frank Palmeri	
Gus Kooles	
Jack Meade	
Robert B. Walker	
Chris Moutos	
Bill Fishburne	
Albert Sneed	
David Schulman	
Wayne Kinser	
Langdon Ammen	
Gary Garner	
Patrick Thompson	
Lloyd Kirk	
Barney Bryant	
June Grant	
Bob Tucker	
Mike Plemmons	
Bill Johnson	

The following people were not able to wait their turn to speak but left written statements indicating their support or opposition to the proposed Sign Ordinance:

Colin M. Hudson - Against
Leah Karpen - For

Mayor Bissette closed the public hearing at 9:30 P.M.

Mayor Bissette thanked those in attendence for their comments. He said City Council would be working on the Sign Ordinance in the next few weeks and that all comments would be given consideration in their deliberations. He said it was great to see this much public interest on the Sign Ordinance issue. He stated that the date of the first reading of the ordinance would be announced at the October 31st City Council Meeting.

ADJOURNMENT:

Mayor Bissette adjourned the meeting at 9:45 P.M.

MAYOR

CITY CLERK

Tuesday - October 31, 1989 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell Martin and A. Robert York; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Councilman Price.

APPROVAL OF MINUTES

Mayor Bissette announced the approval of the minutes of the October 24, 1989 meeting as submitted.

I. PROCLAMATIONS:

A. **Proclamation - "Employ A Vet Week" November 6 - 11, 1989**

Mayor Bissette read the proclamation and presented a copy to Charles Erwin from the Employment Security Commission.

B. **Proclamation - "Great American Smokeout Day" - November 16, 1989**

Mayor Bissette read the proclamation and presented a copy to Robbie Hambright with the American Cancer Society.

C. **Proclamation - "Meals on Wheels Month" - November, 1989**

Mayor Bissette read the proclamation and presented a copy to Ann Flynn, Executive Director of Meals on Wheels.

D. Resolution No. 89-153 - Resolution recognizing Paul Crouch, recent retiree of the City of Asheville.

Mayor Bissette read the resolution stating that Paul Crouch has been employed with the City of Asheville since March, 1957. He was a Firefighter III in the Fire Department prior to his disability retirement.

Upon motion of Vice-Mayor Michalove, seconded by Councilman York, Resolution No. 89-153 was unanimously adopted.

Mayor Bissette presented the resolution to Paul Crouch.

Resolution Book No. 18 Page No. 9

II. PUBLIC HEARINGS:

A. Public hearing relative to group development review - K-Mart Plaza on Tunnel Road - Addition of Pizza Hut Take-Out.

At the request of Mayor Bissette, Councilman Frank moved to excuse Mayor Bissette from vote and participation relative to the K-Mart Plaza Group Development review due to a conflict of interest. This motion was seconded by Vice-Mayor Michalove and carried unanimously.

Vice-Mayor Michalove said the Asheville Planning and Zoning Commission on October 4, 1989, reviewed and approved the site plan subject to the following contingencies: 1) Approval of erosion control plan by the Planning Department prior to soil disturbance; 2) Compliance with required setbacks; and 3) City Council granting a parking variance if needed.

Vice-Mayor Michalove opened the public hearing at 4:45 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Gerald Green, from the Planning Department, reviewed the recommendation of the Planning and Zoning Commission and showed a video of the property to be used by the developer for the addition of a Pizza Hut - Take Out facility.

Vice-Mayor Michalove closed the public hearing at 4:53 p.m.

Councilman Bratton moved for the approval of the group development plan for K-Mart Plaza on Tunnel Road for the

addition of a Pizza Hut Take-Out as recommended by the Planning and Zoning Commission. This motion was seconded by Councilman York and carried unanimously.

B. **Public hearing relative to group development review - Asheville-Buncombe Technical Community College - Addition and renovation of Learning Resource Center.**

Mayor Bissette said the Asheville Planning and Zoning Commission on October 4, 1989, reviewed and recommended approval of the site plan subject to the following contingencies: 1) Approval by the Planning Director of an agreement to construct a facility to provide adequate water supply for fire protection prior to issuance of a building permit; and 2) Staff review of application for building permit for conformance of those drawings with approved drawings.

Mayor Bissette opened the public hearing at 4:55 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Gerald Green, from the Planning Department, reviewed the recommendation of the Planning and Zoning Commission and showed a video of the property to be used by Asheville-Buncombe Technical Community College for the Addition and renovation of the Learning Resource Center.

Harvey Haynes from the Asheville-Buncombe Technical Community College said they will be working with the neighbors on Haith Drive to reduce the lighting in the parking areas and continued buffering for the residents.

Mayor Bissette closed the public hearing at 5:02 p.m.

Councilman Bratton moved for the approval of the group development plan for the Asheville-Buncombe Technical Community College - Addition and renovation of the Learning Resource Center as recommended by the Planning and Zoning Commission. This motion was seconded by Councilman Martin and carried unanimously.

C. **Public hearing relative to establishment of Albemarle Park Historic District.**

Mayor Bissette said the Asheville Planning and Zoning Commission on September 27, 1989, again reviewed the request of the Albemarle Park- Manor Grounds Association, through the Historic Resources Commission, that their area be designated a local historic district. The Commission again voted to recommend approval of the designation and to exclude the property on Charlotte

Street south of the Gatehouse zoned CG Commercial General.

Mayor Bissette opened the public hearing at 5:05 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

The City Attorney reported that protest petitions have been received relating to the inclusion of six lots on Charlotte Street in the Albemarle Park Historic District. He said the petitions were received on October 25, 1989 and were in proper form. He said the protest petitions are signed by owners of in excess of twenty percent (20%) of the property owners in the area which requires a 3/4 affirmative vote of all members of Council before a Historic District can be applied to the six properties in question. He read the names on the protest petitions.

Mayor Bissette requested that the protest petitions be made a part of the minutes.

Kent R. Newell, Director of the Historic Resources Commission of Asheville-Buncombe County, said this public hearing is a joint hearing by the Asheville City Council and the Asheville-Buncombe Historic Resources Commission.

Mr. Newell said at the request of the Albemarle Park-Manor Inn Association, the Historic Resources Commission initiated the designation of the Albemarle Park as an Historic District. As proposed, the boundaries were delineated based on the original development as proposed by Samuel Parsons, a landscape architect of national prominence.

He said a formal request was made in January, with the support from the State Historic Preservation Office. The designation report was approved by the State in early February. The first Planning and Zoning Commission hearing was held in April followed by a presentation before the City Council in May.

He said at the City Council hearing, the issue was remanded back to the Planning and Zoning Commission to address the issue of six properties located along Charlotte Street and later, it was remanded for the entire district.

He said discussion began in July to develop a compromise. In early August, the Albemarle Park-

Manor Inn Association proposed a change to the district boundaries to exclude two of the six properties in question.

He said since being remanded from City Council, the Asheville Planning and Zoning Commission has tabled consideration and recommendation of the issue on three separate occasions. On September 27th, at a special session, the Commission voted 4-3 to exclude the six contested properties.

He said the Planning Department staff and the Albemarle Park-Manor Inn Association are appealing the Asheville Planning and Zoning Commission's recommendation.

Mayor Bissette said since members of Council have heard this matter on several occasions speakers for a group would be limited to six (6) minutes and individual speakers would be limited to three (3) minutes.

The following individuals spoke in support of the establishment of the Albemarle Park Historic District with the inclusion of the six (6) properties on Charlotte Street:

Richard Matthews	- President of the Albemarle Park Homeowners Association - showed slides of the six (6) properties on Charlotte Street. He said he felt the signatures of Mrs. Frue and McElduff on the protest petition should be declared invalid because of the way it was worded. He also questioned the legality of Buncombe County signing the protest petition.
Betty Lawrence	- Historic Resources Commission member
Jeanette Warner	- Smith Cottage - also read letter from Herman Von-Treskow from Grove Park Inn
Max Haner	- President of Grove Park/Sunset Association
Jean Warner	- President of Preservation Society
Doug Campbell	- Historic Resources Commissioner
Kate Matthews	- Holly Hock Cottage

Martha Fullington- State Representative - Historic Preservation

Barbara Field - President of American Institute of Architects

Marjorie Gerokos -

Marilyn Marvin - It'll Do Cottage

Bernie Wolfe - Orchard Road

Shirley Ann McCulloch -

Frank Erwin - Wake Robin Cottage

Van Gibbs - Pine Tree Cottage

Kathy Gibbs - Pine Tree Cottage

Mark Bennett - Fox Hall - also read letter from owner of Wild Field Cottage

John Ledgerton - Architect - also read letter from owner of 150 Cherokee

Spencer Chapman - Board of Directors - Grove Park Inn/Sunset Association - also read letter of Gerald A. Snow

John Broadbooks - 6 Northwood Road - Historic Resources Commissioner - President of N. C. Chapter of Landscape Architects

Lenni Sitnick - 90 Getrude Place

Jane Rawl Bingham -

Jim Samsel - Dogwood Cottage

Jane Gianvito - Monzanita Cottage - also read letter from Martha Nelson (Chestnut Hill)

Susan Roderick -

The following individuals spoke in opposition to including the six (6) lots facing on Charlotte Street in the Albemarle Park Historic District:

Jim Daniels - owner of property included in the six (6) properties facing Charlotte Street

Albert Sneed -Attorney

Ralph Bishop

Ann Cross - Realtor - also read letter from Wade Thomas

Bob Lawrence, Jr.

R. L. Bailey - owner of property included in the six (6) properties facing Charlotte Street

June Grant - Historic Resources Commission member

John Carroll - Realtor

Mayor Bissette closed the public hearing at 6:51 p.m.

Mayor Bissette said the first reading of the ordinance relative to establishing the Albemarle Park Historic District will be considered at the meeting of November 7, 1989.

III. OLD BUSINESS:

A. Ordinance No. 1796 - Third reading of an ordinance amending the zoning of property located at 1897 Hendersonville Road and presently identified as a portion of Lot 12 of Sheet 110 of Ward 7 of the Buncombe County Tax Maps.

Mayor Bissette said the Asheville Planning and Zoning Commission on September 6, 1989, reviewed and recommended approval of zoning a portion of Lot 12,Sheet 110, Ward 7, from R-2 Residential District to CH Commercial Highway District.

Mayor Bissette said the ordinance was previously read on first and second reading and it will not be reread in its entirety.

On a roll call vote of 7-0, Ordinance No. 1796 passed on third reading.

Ordinance Book No. 12 Page No. 2

B. Ordinance No. 1795 - Third reading of an ordinance amending the zoning of property located partially along Wood Avenue and presently identified as portions of Lots 1, 2, 3, and 93 of Sheet 13 of Ward 7 of the Buncombe County Tax Maps.

Mayor Bissette said the Asheville Planning and Zoning Commission on September 6, 1989, reviewed and recommended approval of zoning a portion of Lots 1 and

93, Sheet 7, Ward 13, from HI Heavy Industrial District to LI Light Industrial District, and a portion of Lots 2 and 3, Sheet 7, Ward 13, from R-3 Residential District to LI Light Industrial District.

Mayor Bissette said the ordinance was previously read on first and second reading and it will not be reread in its entirety.

On a roll call vote of 7-0, Ordinance No. 1795 passed on third reading.

Ordinance Book No. 12 Page No. 1

IV. NEW BUSINESS:

A. Ordinance No. 1799 - Budget Ordinance amendment for purchase and installation of standby electrical generators for White Fawn and Mt. Royal Radio Communications Buildings.

Mayor Bissette said the total amount of funds needed to complete the project is still $25,000.00.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Frank moved for the adoption of Ordinance No. 1799. This motion was seconded by Vice-Mayor Michalove.

On a roll call vote of 7-0, Ordinance No. 1799 passed on first and final reading.

Ordinance Book No. 12 Page No. 5

B. Ordinance No. 1800 - Budget Ordinance amendment to appropriate funds for Victims Assistance Program

Mayor Bissette said the City has been notified of a grant award of $45,000 from the Governor's Crime Commission. The grant requires a local match of $24,230. The Budget Amendment will appropriate the grant funds and local match in the Budget. The Housing Authority will administer the project.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Price moved for the adoption of Ordinance No. 1799. This motion was seconded by Councilman York.

On a roll call vote of 7-0, Ordinance No. 1800 passed on first and final reading.

Ordinance Book No. 12 Page No. 6

V. CONSENT:

A. Resolution No. 89-154 - Resolution authorizing the Mayor to execute easement in favor of the Carolina Power and Light Company - off Windswept Drive.

Mayor Bissette said the Carolina Power and Light Company has requested a right-of-way easement from the City of Asheville for the purpose of updating existing electrical power lines.

Resolution Book No. 18 Page No. 10

B. Scheduling of public hearing relative to rezoning property on Cherry Street for Ken Pitts for November 14, 1989.

Mayor Bissette said the Asheville Planning and Zoning Commission on October 4, 1989, voted to recommend to City Council that Ward 3, Sheet 2, Lots 271 and 272, be rezoned from R-4 Residential District to CBD Central Business District. Petitioners had requested rezoning from R-4 Residential District to CH Commercial Highway District.

Upon motion of Vice-Mayor Michalove, seconded by Councilman Frank, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

CLAIMS - MICHAEL SHOUPE (WATER PRODUCTION) - A. L. HENDERSON (WATER) - MRS. PAUL SUTTON (WATER) - MRS. ISAACS (PARKS) - CORNERSTONE PRINTERS (STREETS) - DENNIS CASSIDY (SANITATION) - TIM DEWEESE (TRAFFIC ENGINEERING) - RONNIE LAMBERT (WATER)

Claims were presented from Michael Shoupe, A. L. Henderson, Mrs. Paul Sutton, Mrs. Isaacs, Cornerstone Printers, Dennis Cassidy, Tim DeWeese, and Ronnie Lambert.

Mayor Bissette referred the claims to the City Attorney for investigation and recommendation.

MOTION RELATIVE TO DELAY OF HENDERSONVILLE ROAD PROJECT

Resolution No. 89-155 - Resolution endorsing the early completion of the Hendersonville Road widening Project

Councilman Price moved that a resolution be adopted to be forwarded to the North Carolina Department of Transportation expressing Council's concern over the possible delay of the Hendersonville Road project. This motion was seconded by Councilman Martin and carried unanimously.

Resolution Book No. 18 Page 11

SIGN ORDINANCE WORKSHOP - NOVEMBER 1, 1989 - 7:30 a.m.

Mayor Bissette announced that the Council will hold a sign ordinance workshop on November 1, 1989 at 7:30 a.m. and that the first reading of the ordinance will be at the November 7, 1989 meeting.

VII. ADJOURNMENT.

Mayor Bissette adjourned the meeting at 7:00 p.m.

MAYOR CITY CLERK

PROTEST OF PROPOSED ZONING AMENDMENT

TO: The Asheville City Council

RE: Proposed Amendment of Article 13, Chapter 30 of the Zoning Ordinace of the City of Asheville to create the Albemarle Park Historic District.

The undersigned, as owners of property affected by the proposed amendment of Article 13, Chapter 30 of the Zoning Ordinance of the City of Asheville, submitted by Albemarle Park-Manor Grounds Association on January 2, 1989, do hereby protest such amendment and respectfully request its denial. We consider the proposed amendment objectionable on the following grounds: (Set forth each specific ground in numbered paragraphs. Add additional sheets if necessary.)

1. We object to any Historic District designation which includes Lots 73, 72, 91, 70, 71 and 99 of Ward 2, Sheet 15.

2.

3.

SIGNATURE OF PROPERTY OWNER	ADDRESS	WARD, SHEET, LOT #
[signature]	BROWN BOAT COTTAGE 70 CHEROKEE ROAD	2 15 33

A tax map indicating the location of property owned by those signing this petition is attached.

Date Submitted 10-25-89

Date Received by City Clerk [illegible]

PROTEST OF PROPOSED ZONING AMENDMENT

TO: The Asheville City Council

RE: Proposed Amendment of Article 13, Chapter 30 of the Zoning Ordinace of the City of Asheville to create the Albemarle Park Historic District.

The undersigned, as owners of property affected by the proposed amendment of Article 13, Chapter 30 of the Zoning Ordinance of the City of Asheville, submitted by Albemarle Park-Manor Grounds Association on January 2, 1989, do hereby protest such amendment and respectfully request its denial. We consider the proposed amendment objectionable on the following grounds: (Set forth each specific ground in numbered paragraphs. Add additional sheets if necessary.)

1. We object to any Historic District designation which includes Lots 73, 72, 91, 70, 71 and 99 of Ward 2, Sheet 15, being respectful of the publicly stated desire of these owners to be excluded.

2. These properties were purchased by their owners as commercially zoned properties having more than enough restrictions.

3. I go on record as being opposed to including them against their expressed will. I feel that it is wrong to further burden these owners at the selfish wish of others.

SIGNATURE OF PROPERTY OWNER	ADDRESS	WARD, SHEET, LOT #
Baker & Livengood		
C. L. Livengood	Orchard Cottage	2 15 86

A tax map indicating the location of property owned by those signing this petition is attached.

Date Submitted 10-25-89

Date Received by City Clerk [illegible]

PROTEST OF PROPOSED ZONING AMENDMENT

TO: The Asheville City Council

RE: Proposed Amendment of Article 13, Chapter 30 of the Zoning Ordinace of the City of Asheville to create the Albemarle Park Historic District.

The undersigned, as owners of property affected by the proposed amendment of Article 13, Chapter 30 of the Zoning Ordinance of the City of Asheville, submitted by Albemarle Park-Manor Grounds Association on January 2, 1989, do hereby protest such amendment and respectfully request its denial. We consider the proposed amendment objectionable on the following grounds: (Set forth each specific ground in numbered paragraphs. Add additional sheets if necessary.)

1. We object to any Historic District designation which includes Lots 73, 72, 91, 70, 71 and 99 of Ward 2, Sheet 15.

2.

3.

SIGNATURE OF PROPERTY OWNER	ADDRESS	WARD, SHEET, LOT #
Gail W. Martin	102 Orchard Rd	Ward 2, Sheet 15, Lot 77

A tax map indicating the location of property owned by those signing this petition is attached.

Date Submitted 11-25-89

Date Received by City Clerk

PROTEST OF PROPOSED ZONING AMENDMENT

TO: The Asheville City Council

RE: Proposed Amendment of Article 13, Chapter 30 of the Zoning Ordinace of the City of Asheville to create the Albemarle Park Historic District.

The undersigned, as owners of property affected by the proposed amendment of Article 13, Chapter 30 of the Zoning Ordinance of the City of Asheville, submitted by Albemarle Park-Manor Grounds Association on January 2, 1989, do hereby protest such amendment and respectfully request its denial. We consider the proposed amendment objectionable on the following grounds: (Set forth each specific ground in numbered paragraphs. Add additional sheets if necessary.)

1. We object to any Historic District designation which includes Lots 73, 72, 91, 70, 71 and 99 of Ward 2, Sheet 15. because these lots are commercial in character and have absolutely no historic significance. WOY

2.

3.

SIGNATURE OF PROPERTY OWNER	ADDRESS	WARD, SHEET, LOT #
[signature]		W2 Sh 15 lots 67+44

A tax map indicating the location of property owned by those signing this petition is attached.

Date Submitted 10-25-89

Date Received by City Clerk [illegible]

PROTEST OF PROPOSED ZONING AMENDMENT

TO: The Asheville City Council

RE: Proposed Amendment of Article 13, Chapter 30 of the Zoning Ordinace of the City of Asheville to create the Albemarle Park Historic District.

The undersigned, as owners of property affected by the proposed amendment of Article 13, Chapter 30 of the Zoning Ordinance of the City of Asheville, submitted by Albemarle Park-Manor Grounds Association on January 2, 1989, do hereby protest such amendment and respectfully request its denial. We consider the proposed amendment objectionable on the following grounds: (Set forth each specific ground in numbered paragraphs. Add additional sheets if necessary.)

1. We object to any Historic District designation which includes Lots 73, 72, 91, 70, 71 and 99 of Ward 2, Sheet 15.

2.

3.

SIGNATURE OF PROPERTY OWNER	ADDRESS	WARD, SHEET, LOT #
[signature]	207 Charlotte St.	Ward 2, Sheet 15, Lot 72
	215 Charlotte St.	Ward 2, Sheet 15, Lot 91

tax map indicating the location of property owned by those signing this petition is attached.

Date Submitted 10-25-89

Date Received by City Clerk [illegible]

30

PROTEST OF PROPOSED ZONING AMENDMENT

TO: The Asheville City Council

RE: Proposed Amendment of Article 13, Chapter 30 of the Zoning Ordinace of the City of Asheville to create the Albemarle Park Historic District.

The undersigned, as owners of property affected by the proposed amendment of Article 13, Chapter 30 of the Zoning Ordinance of the City of Asheville, submitted by Albemarle Park-Manor Grounds Association on January 2, 1989, do hereby protest such amendment and respectfully request its denial. We consider the proposed amendment objectionable on the following grounds: (Set forth each specific ground in numbered paragraphs. Add additional sheets if necessary.)

1. We object to any Historic District designation which includes Lots 73, 72, 91, 70, 71 and 99 of Ward 2, Sheet 15.

2.

3.

SIGNATURE OF PROPERTY OWNER	ADDRESS	WARD, SHEET, LOT #
R. L. Burris	247 Charlotte St	Ward 2, Sheet 15, Lot 99

A tax map indicating the location of property owned by those signing this petition is attached.

Date Submitted 10-25-89

Date Received by City Clerk [illegible]

PROTEST OF PROPOSED ZONING AMENDMENT

TO: The Asheville City Council

RE: Proposed Amendment of Article 13, Chapter 30 of the Zoning Ordinace of the City of Asheville to create the Albemarle Park Historic District.

The undersigned, as owners of property affected by the proposed amendment of Article 13, Chapter 30 of the Zoning Ordinance of the City of Asheville, submitted by Albemarle Park-Manor Grounds Association on January 2, 1989, do hereby protest such amendment and respectfully request its denial. We consider the proposed amendment objectionable on the following grounds: (Set forth each specific ground in numbered paragraphs. Add additional sheets if necessary.)

1. We object to any Historic District designation which includes Lots 73, 72, 91, 70, 71 and 99 of Ward 2, Sheet 15. Actually, I am in favor of the historic district with or without the six properties.
2. _____
3. _____

SIGNATURE OF PROPERTY OWNER	ADDRESS	WARD, SHEET, LOT #
[signature]	20 TERRACE RD	WARD 2, SHEET 15, LOT 97
[signature]	59 TERRACE RD	WARD 2, SHEET 15, LOT 81 1/2
MacDuff Associates		

A tax map indicating the location of property owned by those signing this petition is attached.

Date Submitted 10-25-89

Date Received by City Clerk [illegible]

PROTEST OF PROPOSED ZONING AMENDMENT

TO: The Asheville City Council

RE: Proposed Amendment of Article 13, Chapter 30 of the Zoning Ordinace of the City of Asheville to create the Albemarle Park Historic District.

The undersigned, as owners of property affected by the proposed amendment of Article 13, Chapter 30 of the Zoning Ordinance of the City of Asheville, submitted by Albemarle Park-Manor Grounds Association on January 2, 1989, do hereby protest such amendment and respectfully request its denial. We consider the proposed amendment objectionable on the following grounds: (Set forth each specific ground in numbered paragraphs. Add additional sheets if necessary.)

1. We object to any Historic District designation which includes Lots 73, 72, 91, 70, 71 and 99 of Ward 2, Sheet 15.

2.

3.

SIGNATURE OF PROPERTY OWNER	ADDRESS	WARD, SHEET, LOT #
Daniels Business Services, Inc.	201 Charlotte St	Ward 2, Sheet 15, Lot 73
By: [signature], President		

A tax map indicating the location of property owned by those signing this petition is attached.

Date Submitted 10-25-89

Date Received by City Clerk [illegible]

PROTEST OF PROPOSED ZONING AMENDMENT

TO: The Asheville City Council

RE: Proposed Amendment of Article 13, Chapter 30 of the Zoning Ordinace of the City of Asheville to create the Albemarle Park Historic District.

The undersigned, as owners of property affected by the proposed amendment of Article 13, Chapter 30 of the Zoning Ordinance of the City of Asheville, submitted by Albemarle Park-Manor Grounds Association on January 2, 1989, do hereby protest such amendment and respectfully request its denial. We consider the proposed amendment objectionable on the following grounds: (Set forth each specific ground in numbered paragraphs. Add additional sheets if necessary.)

1. We object to any Historic District designation which includes Lots 73, 72, 91, 70, 71 and 99 of Ward 2, Sheet 15.

2.

3.

SIGNATURE OF PROPERTY OWNER	ADDRESS	WARD, SHEET, LOT #
R. L. Bailey	247 Charlotte St.	2, Sheet 15, 121
P Rea. Maple Cove Dr.	Asheville, N.C. 28801	

A tax map indicating the location of property owned by those signing this petition is attached.

Date Submitted 11-25-89

Date Received by City Clerk 11-27-89

PROTEST OF PROPOSED ZONING AMENDMENT

TO: The Asheville City Council

RE: Proposed Amendment of Article 13, Chapter 30 of the Zoning Ordinace of the City of Asheville to create the Albemarle Park Historic District.

The undersigned, as owners of property affected by the proposed amendment of Article 13, Chapter 30 of the Zoning Ordinance of the City of Asheville, submitted by Albemarle Park-Manor Grounds Association on January 2, 1989, do hereby protest such amendment and respectfully request its denial. We consider the proposed amendment objectionable on the following grounds: (Set forth each specific ground in numbered paragraphs. Add additional sheets if necessary.)

1. We object to any Historic District designation which includes Lots 73, 72, 91, 70, 71 and 99 of Ward 2, Sheet 15.

2.

3.

SIGNATURE OF PROPERTY OWNER	ADDRESS	WARD, SHEET, LOT #
[signature]	[illegible]	Ward 2, Sheet 15,
	[illegible]	Lots 48, 42, 41, 40,
	[illegible]	39, 38, 45, 60, 59

A tax map indicating the location of property owned by those signing this petition is attached.

Date Submitted _____

Date Received by City Clerk _____

Tuesday - November 7, 1989 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Russell Martin and A. Robert York; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Wilhelmina B. Bratton

INVOCATION

The invocation was given by Mayor Bissette.

APPROVAL OF MINUTES

Mayor Bissette announced the approval of the minutes of the October 31, 1989 meeting as submitted.

I. PROCLAMATIONS:

II. PUBLIC HEARINGS:

III. OLD BUSINESS:

A. Ordinance No. 1801 - Ordinance amending Article 9. Sign Regulations of the Code of Ordinances of the City of Asheville.

Mayor Bissette said the Asheville Planning and Zoning Commission on September 27, 1989 moved to forward their recommendations to City Council in the form of an addendum along with the complete, unabridged text of the Asheville Sign Commission's "Draft Sign Ordinance". A public hearing was held on the proposed Sign Regulations on October 24, 1989.

Mayor Bissette said Council has met a number of times reviewing the two drafts of the proposed Sign Ordinance from the Sign Commission and the Planning and Zoning Commission. He said a number of changes have been proposed and before the third and final reading of the ordinance Council has indicated that a number of other areas will be reviewed and changed. He said the ordinance to be acted upon today is not the final document.

In response to allegations made at the public hearing on October 24, 1989 by Frank Graham, Mayor Bissette requested that the following opinion from the North Carolina State Bar Association be made a part of the minutes:

Vice-Mayor Michalove moved for the adoption of Ordinance No. 1801. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1801 passed on first reading.

B. **Ordinance No. 1762 - Ordinance amending Article 13 of Chapter 30 of the Code of Ordinances of the City of Asheville to create the Albemarle Park Historic District.**

Mayor Bissette said the Asheville Planning and Zoning Commission on September 27, 1989, again reviewed the request of the Albemarle Park-Manor Grounds Association, through the Historic Resources Commission, that their area be designated a local historic district. The Commission again voted to recommend approval of the designation and to exclude the property on Charlotte Street south of the Gatehouse zoned CG Commercial General. A public hearing was held on this matter on October 31, 1989.

Mayor Bissette said Gene Rainey, Chairman of the Buncombe County Commissioners hand delivered a letter to the City amending their original protest petition regarding including Lots 70, 71, 72, 73, 91, and 99 of Ward 2, Sheet 15 into the Albemarle Park Historic District. He requested that the letter be made a part of the minutes. (Letter attached)

The City Attorney stated that the Planning Department, with the assistance of the Buncombe County Mapping Department, had calculated the percentage of property owned by the persons filing protest petitions. He stated that the owners of in excess of 20% of the property within the proposed District had filed petitions protesting the inclusion of Lots 99, 91, 72, and 73 in the District. He stated, threfore, that a 3/4's majority of all members of Council would be required to include either of those lots within the Historic District. He stated further that, with the County's withdrawal of its protest with regard to Lots 70 and 71, the owners of less than 20% of the property within the proposed District were protesting Lots 70 and 71 and only a simple majority of the members of Council would therefore be required to include those two lots in the District.

Mayor Bissette said the ordinance as presented to members of Council includes the six lots facing on Charlotte Street, being Lots 70, 71, 72, 73, 91, and 99 of Ward 2, Sheet 15, within the Albemarle Park Historic District. He said if Council so desired they could adopt an ordinance to include all these lots or a portion since the publication indicated that Council would consider including the six lots.

After discussion, Councilman Price moved to adopt Ordinance No. 1762 including Lots 71, 91, 70, and 99 in

the Historic District and to exclude Lots 72 and 73. This motion was seconded by Councilman York.

Vice-Mayor Michalove made a substitute motion to adopt Ordinance No. 1762 as recommended by the Planning and Zoning Commission which would exclude all six lots facing on Charlotte Street. This substitute motion died for the lack of a second.

At the request of Vice-Mayor Michalove, Julia Cogburn, Director of Planning, said the creation of the Historic District would have no effect on the permitted uses in the Commercial General zone. She reviewed permitted uses in the Commercial General District.

Vice-Mayor Michalove questioned whether or not voluntary design review guidelines could be established for the area without the creation of a historic district.

Upon inquiry of Vice-Mayor Michalove, the City Attorney said if property was included in the historic district and the owners did not want their properties included they could challenge the decision in court.

Albert Sneed, Attorney representing R. L. Bailey and James Daniels, said his clients do not want their properties included in the historic district. He said his clients do not object to any other properties being included.

Vice-Mayor Michalove moved that Council go into executive session to discuss a legal matter. This motion was seconded by Councilman Price and carried unanimously.

Mayor Bissette said while in executive session contact was made with the Buncombe County Commissioners and they have withdrawn their protest against including Lots 70 and 71 in the historic district.

Vice-Mayor Michalove indicated that in order to keep the concept of the ordinance on the floor he would vote in favor of the ordinance with the understanding that the ordinance could be amended before the second or third reading.

On a roll call vote of 6 - 0, Ordinance No. 1762 passed on first reading as amended by Councilman Price's motion to include Lots 71, 91, 70, and 99 and to exclude Lots 72 and 73.

IV. NEW BUSINESS:

V. CONSENT:

VII. OTHER BUSINESS:

A. Group Development Actions by the Planning and Zoning Commission

Gerald Green, from the Planning Department, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. The action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. The following action was taken by the Planning and Zoning Commission at their meeting on November 1, 1989.

Asheville School - Girls Dormitory

The Asheville Planning and Zoning Commission on November 1, 1989 reviewed and approved the site plan of the Asheville School - Girls Dormitory subject to the following contingencies: 1) Approval of an erosion control plan by the Planning Department prior to soil disturbance; 2) Compliance with requirements of Fire Department; and 3) Compliance with requirements of Water, Wastewater, and Engineering Department.

He said there were no public comments at the public hearing.

Council accepted the recommendation of the Planning and Zoning Commission for the site plan of the Asheville School - Girls Dormitory, thereby indicating approval.

B. **Approval of Settlement Agreement - Dixie Construction Company - Parking Garages - Wall Street Improvements**

At the request of the City Attorney, Vice-Mayor Michalove moved that the Mayor be authorized to execute a settlement agreement and release for the Dixie Construction Company lawsuit. This motion was seconded by Councilman Price and carried unanimously.

C. **Lennie Sitnick - Issues to be considered by Council - Nuclear deregulation - CFC's Banning - Recycling Program - Proclamation for Earth Day and Earth Week**

Lennie Sitnick requested that Council, in the next few weeks, consider nuclear deregulation, CFC's Banning, a recycling program for City Hall, and proclaiming April 22, 1990 as Earth Day and April 16 - 22, 1990 as Earth Week.

D. **Claims - Marguerite Dec (Streets) - Virginia Holloway (Sewer) - Doris Bailey (Engineering) - Charles Ricker (Engineering)**

Claims were presented from Marguerite Dec, Virginia Holloway, Doris Bailey, and Charles Ricker.

Mayor Bissette referred the claims to the City Attorney for investigation and recommendation.

VIII. ADJOURNMENT.

Mayor Bissette adjourned the meeting at 5:55 p.m.

MAYOR

CITY CLERK

Tuesday - November 14, 1989 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, and Russell Martin; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman A. Robert York

INVOCATION

The invocation was given by Vice-Mayor Michalove.

APPROVAL OF MINUTES

Mayor Bissette announced the approval of the minutes of the November 7, 1989 meeting as submitted.

I. PROCLAMATIONS:

A. Resolution of Appreciation Presented - City of Valdese

Mayor Pro-Tem Ed Paskall from the City of Valdese presented Mayor Bissette with a resolution of appreciation for the City of Asheville aiding in the clean up of Valdese from the damage created by Hurricane Hugo.

Mayor Bissette recognized the crews from the Streets Division and Maintenance Division who went to the City of Valdese to help with the clean up. The resolution was given to Mike Evans, Streets Superintendent to be placed in the Streets Division Offices.

Jeff Morris, Town Manager of Valdese, expressed appreciation to the City staff members who helped in the clean up.

A. Proclamation - "1989 Light Up Your Holidays Festival" - November 22 - December 31, 1989

Mayor Bissette read the proclamation and presented it to Dick Hatton, Chairman of Light Up Your Holidays Committee.

Mr. Hatton highlighted the events taking place during the Light Up Your Holidays Festival.

B. Resolution No. 89-156 - Resolution recognizing recent retiree, James Carter

Mayor Bissette read the resolution stating that Mr. Carter retired on June 1, 1989. Mr. Carter has been employed with the City of Asheville since December of 1974. He was a laborer senior in the Sanitation Division for 15 years. Mr. Carter consistently donated blood for City blood drives for the American Red Cross.

Upon motion of Vice-Mayor Michalove, seconded by Councilman Price, Resolution No. 89-156 was unanimously approved.

Mayor Bissette presented the resolution to Mr. Carter.

Resolution Book No. 18 Page No. 42

II. PUBLIC HEARINGS:

A. Public hearing relative to rezoning property on Cherry Street for Ken Pitts.

Ordinance No. 1802 - An Ordinance amending Ordinance No. 322, known as "An Ordinance providing for the Zoning of the City of Asheville," as amended, Kenneth and Jacksie Pitts, Petitioners, property located at 95 Cherry Street

Mayor Bissette said the Asheville Planning and Zoning Commission on October 4, 1989, voted to recommend to City Council that Ward 3, Sheet 2, Lots 271 and 272, be rezoned from R-4 Residential District to CBD Central Business District. Petitioners had requested rezoning from R-4 Residential District to CH Commercial Highway District.

Mayor Bissette opened the public hearing at 4:39 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Carol Alberice, from the Planning Department, said the property in question is owned by Ken Pitts and houses the Frugal Framer, a retail framing business. She said the property is in the Montford Redevelopment Area and the Montford Historic District. She reviewed the surrounding zoning in the area. She showed a video of the property requested to be rezoned.

In reviewing the history of the rezoning of the property, Mrs. Alberice said in June, 1984 the property was rezoned CBD and later rezoned R-4 Residential with the understanding that R-4 Residential District would be amended in order that the Frugal Framer would not be a non-conforming use. She said the Commission voted 4-2 to recommend that the property be rezoned from R-4 Residential District to CBD Central Business District.

O. E. Starnes, Attorney for Ken Pitts, said the rezoning would be consistent with the original Central Business District (CBD) zoning. He said when the business was constructed the property was zoned CBD and later changed to R-4 Residential District which makes the business a non-conforming use. He said the value of the property has been adversely affected with the R-4 Residential District zoning.

Councilman Martin said the construction of the Frugal Framer building upgraded the neighborhood.

Mayor Bissette closed the public hearing at 4:55 p.m.

Mayor Bissette said the ordinance was previously presented to members of Council and would not be read in its entirety.

Councilman Martin moved for the adoption of Ordinance No.1802. This motion was seconded by Vice-Mayor Michalove.

On a roll call vote of 6-0, Ordinance No. 1802 passed on first reading.

III. OLD BUSINESS:

A. Ordinance No. 1801 - Second reading of an ordinance amending Article 9. Sign Regulations of the Code of Ordinances of the City of Asheville.

Mayor Bissette said the Asheville Planning and Zoning Commission on September 27, 1989 moved to forward their recommendations to City Council in the form of an addendum along with the complete, unabridged text of the Asheville Sign Commission's "Draft Sign Ordinance" A public hearing was held on the proposed Sign Regulations on October 24, 1989. This ordinance was read on first reading on November 7, 1989.

Mayor Bissette said members of Council are continuing to review the proposed ordinance and a number of changes have been made. He said they will continue meeting next week since there are still a number of provisions to review. He said representatives of the sign companies would be meeting with Council tomorrow during a work session to discuss the economic impact of the proposed ordinance. He said copies of the proposed ordinance with the changes would be available to anyone interested.

The City Attorney said protest petitions were received in opposition to the proposed sign ordinance; however, in calculating the percentages to determine if a 3/4 vote would be required to adopt the ordinance it was determined that substantially less than 20% signed the protest petitions, therefore a simple majority vote would adopt the ordinance.

In response to Attorney Albert Sneed, the City Attorney said in determining the calculations 19,769 acres was used as the denominator.

Mr. Sneed requested that the City Attorney review the percentages again stating that the proposed ordinance does not affect all properties in the City. He said the current sign ordinance should be enforced before a new sign ordinance is adopted. He requested that Council slow down the process of adopting a sign ordinance and deal with facts rather than emotions.

Barbara Kohler, owner of Stanleys Barbeque, read a prepared statement in opposition to the proposed sign ordinance. She said the ordinance would adversely affect her business.

Mike Summey, with Summey Outdoor Advertising Company, stated that Council should have the ordinance in final form prior to the second reading of the ordinance. He said in his opinion Council is moving too fast on this important matter.

Phil Carson, Attorney, said the proposed ordinance has been under careful review for quite some time with the Sign Commission and the Planning and Zoning Commission.

After discussion, Councilman Price moved to amend Ordinance No. 1801 to include changes made by Council and underlined in the "draft" ordinance dated 11/14/89. This motion was seconded by Councilman Frank and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1801 passed on second reading.

Mayor Bissette said the third reading of Ordinance No. 1801 will be on November 21, 1989 if the ordinance can be in final form by that time; otherwise, it will on November 28, 1989.

B. **Ordinance No. 1762 - Second reading of an ordinance amending Article 13 of Chapter 30 of the Code of Ordinances of the City of Asheville to create the Albemarle Park Historic District.**

Mayor Bissette said the Asheville Planning and Zoning Commission on September 27, 1989, again reviewed the request of the Albemarle Park-Manor Grounds Association, through the Historic Resources Commission, that their area be designated a local historic district. The Commission again voted to recommend approval of the designation and to exclude the property on Charlotte Street south of the Gatehouse zoned CG Commercial General. A public hearing was held on this matter on October 31, 1989. This ordinance was read on first reading on November 7, 1989.

Mayor Bissette said the ordinance was previously read on first reading and it would not be reread in its entirety.

Albert Sneed, Attorney representing Jim Daniels and R. L. Bailey, said his clients do not wish to be included in the Albemarle Historic District. He said the group wanting the historic district has no financial interest in his clients properties and should not have the right to request that these properties be included in the district. He said being in the historic district would place an unusual burden on the use of the properties.

Lennie Sitnick said the residents are mainly concerned about future use of the property. She said perhaps the residents could receive some type of permanent assurance about the future use of these properties without impeding upon property owner rights.

Councilman Bratton commented that she is still having concerns about the proposed ordinance and would like to visit other cities in the vicinity, particularly Morganton, N.C., that have different types of historic districts, such as foundations preserving properties.

On a roll call vote of 6-0, Ordinance No.1762 passed on second reading.

IV. NEW BUSINESS:

A. Resolution No. 89-157 - Resolution of the City of Asheville, North Carolina approving the facilities and equipment lease agreement and related matters.

Mayor Bissette said the City has received and awarded bids for renovation to the City Hall Building. The City has received and awarded bids related to its computer system upgrade. This resolution will authorize and ratify actions related to financing the City Hall renovation and computer system upgrade projects.

Upon motion of Councilman Martin, seconded by Councilman Frank, Resolution No. 89-157 was unanimously adopted.

Resolution Book No. 18 Page No. 13 - 16

B. Ordinance No. 1803 - Budget ordinance amendment to provide the services of a management consulting firm for a study of labor and equipment requirements for Public Works.

Mayor Bissette said the City and Water Authority propose a study of maintenance and operations crews in Sanitation, Streets, and Water Maintenance Divisions. A joint effort will save the respective agencies in the cost of consulting services. Significant cost savings are expected.

The City Manager said the budget amendment is proposed to provide the services of a management consulting firm for a study of the labor and equipment requirements for maintenance and operating crews in the Sanitation and Streets Divisions. The study is proposed as a joint effort of the City and the Water Authority and includes the field crews of Water Maintenance Division.

Specifically, the study will determine for each division:

-The appropriate number of crews to efficiently serve each function.
-The appropriate number of personnel in each crew.
-The proper amount and type of equipment required by each crew.

City staff has recognized for some time the cost savings potential of a crew study. When members of the Water Authority decided to examine Water Department maintenance and operations crews, it seemed a logical choice for Public Works and Water to cooperate in a joint effort and reduce the respective cost of conducting the study through "volume discount".

A selection group consisting of Harold Huff, Jim Ewing, and Win Powell; evaluated nine proposals from management

consulting firms and recommend Burke and Associates of Aurora, Colorado. Burke is prepared to begin work within 15 calendar days after notice to proceed and will complete the work within 4 months. The pro rata cost of the study is:

Public Works	$26,000
Water Maintenance	23,000

According to Burke and Associates, expected annual cost savings for a project of this type is 4 to 7 times the consultant fee which will give Public Works cost savings of at least $100,000 per year.

Vice-Mayor Michalove moved to adopt Ordinance No. 1803. This motion was seconded by Councilman Frank.

On a roll call vote of 6-0, Ordinance No. 1803 passed on first and final reading.

Ordinance Book No. 12 Page No. 46

C. Resolution No. 89-158 - Resolution authorizing Mayor to execute the Metropolitan Sewerage District Consolidation Agreement.

Mayor Bissette said the Consolidation Committee has completed its work and the agreement is being reviewed by all governmental bodies.

Upon motion of Vice-Mayor Michalove, seconded by Councilman Bratton, Resolution No. 89-158 was unanimously adopted.

Resolution Book No. 18 Page No. 17

V. CONSENT:

A. Sale of Disposal Parcel 105 in the East End/Valley Street Community Improvement Program.

SUMMARY: The Housing Authority has tentatively accepted a bid for Disposal Parcel 105 in the East End/Valley Street Community Improvement Program. This action will authorize the sale of Disposal Parcel 105.

B. Resolution No. 89-159 - Resolution authorizing the City Manager to execute an easement to Southern Bell across a portion of property owned by the City and located on Lexington Avenue.

SUMMARY: This resolution will authorize the execution of a right-of-way easement to Southern Bell

Telephone and Telegraph Company across Lexington Avenue.

Resolution Book 18 Page 18

C. Resolution No. 89-160 - Resolution authorizing submittal of an application to HUD for a Youth Sports Club Grant.

SUMMARY: Application for a youth sports club grant to combat drugs at public housing sites in the amount of $25,000 through HUD Program will include establishment of football activities within the Hillcrest Enrichment Program. Program will be administered by Housing Authority of the City of Asheville.

Resolution Book No. 18 - Page 19-20

D. Announcement of appointment to the Housing Authority of the City of Asheville.

SUMMARY: Announce the appointment of Mabel O. Hopkins as a member of the Housing Authority of the City of Asheville to serve for a term of five (5) years, ending June 11, 1994.

E. Scheduling of public hearing relative to rezoning property located on Springvale Avenue for Cleo and John Wilson and Loraine Hensley for November 28, 1989.

SUMMARY: The Asheville Planning and Zoning Commission on November 1, 1989, reviewed and recommended approval of rezoning Ward 7, Sheet 16, Lots 4, 101, 104, 114, and 125, from R-3 Residential District to LI Light Industrial District.

F. Resolution No. 89-161 - Resolution authorizing the City Manager to enter into an agreement with Burke and Associates, Inc. of Aurora, Colorado, to conduct a Crew Study for Public Works.

SUMMARY: The City and Water Authority propose a study of maintenance and operations crews in Sanitation, Streets, and Water Maintenance Divisions. A joint effort will save the respective agencies in the cost of consulting services. Significant cost savings are expected.

Resolution Book No. 18 Page 21

G. Resolution No. 89-162 - Joint resolution to encourage the conservation, preservation and enhancement of the scenic beauty of Buncombe County.

SUMMARY: This joint resolution by Buncombe County, the City of Asheville, Biltmore Forest, Black Mountain, Montreat, Weaverville, Woodfin, Asheville Area Chamber of Commerce, Black Mountain/Swannanoa Chamber of Commerce, the Council of Independent Business Owners, the Asheville Board of Realtors, and the Greater Asheville Home Builders Association is to encourage the conservation, preservation and enhancement of the scenic beauty of Buncombe County.

Resolution Book No. 18 - Page 22 - 23

Upon motion of Vice-Mayor Michalove, seconded by Councilman Martin, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

A. Resolution No. 89-163 - Resolution authorizing the City Manager to execute an agreement for the purchase of property on Haywood Street

The City Manager presented the resolution which would authorize execution of an agreement with W. C. Johnson and/or Samuel Jerome Crow, as Trustee, for the purchase of property on Haywood Street (formerly occupied by the Camera House and High Country Crafters).

Upon motion of Vice-Mayor Michalove, seconded by Councilman Martin, Resolution No. 89-163 was unanimously adopted.

Resolution Book No. 18 - Page 24 - 25

B. Ordinance No. 1804 - Budget Ordinance Amendment - Computer Upgrade and Rankin Arcade Project

The City Manager presented a budget ordinance amendment which establishes an appropriation for the computer upgrade project $1,300,000 and increases the appropriation for the Rankin Arcade to $400,000.

Vice-Mayor Michalove moved for the adoption of Ordinance No. 1804. This motion was seconded by Councilman Martin.

On a roll call vote of 6-0, Ordinance No. 1804 passed on first and final reading.

Ordinance Book No. 12 - Page 46

C. Resolution No. 89-164 - Resolution appointing member to the Alcohol Beverage Control Board (Russell M. Martin)

Mayor Bissette presented a resolution appointing Russell M. Martin as a member of the City of Asheville Board of Alcoholic Control for a term of three years, term expiring November 13, 1992, or until his successor is duly appointed and qualified.

Upon motion of Councilman Bratton, seconded by Councilman Frank, Resolution No. 89-164 was unanimously adopted.

Resolution Book No. 18 - Page 26

D. **Announcement - Amended Sign Package for River Ridge Development - Public Hearing**

The City Manager announced that a public hearing was scheduled for today relative to the amended sign package for River Ridge Development. He said it has been determined that the public hearing was not needed; however, the project would be coming back before Council in the form of a group development.

E. **City of Asheville Water Tapping Team**

The City Manager said the City of Asheville Water Tapping Team successfully defended their State Championship Title at Grove Park Inn today. He said they would be competing in the National Competition in Cincinnati, Ohio.

F. **Claims - Helen Lewis (Streets) - Troy Pegg (Water) - Robert Oglesby (Sanitation) - Catherine Santoli (Police) - John Drake (Water) - Selina McCuiston (Sewer)**

The City Manager presented claims received from Helen Lewis, Troy Pegg, Robert Oglesby, Catherine Santoli, John Drake, and Selina McCuiston.

Mayor Bissette referred the claims to the City Attorney for investigation and recommendation.

G. **Lawsuit - David Lynn and wife, Lorna Lynn (Board of Adjustment meeting)**

The City Manger said the city was served with a lawsuit on November 8, 1989 involving David Lynn and wife, Lorna Lynn, regarding special proceeding to compel testimony and production of records at Board of Adjustment meeting.

Mayor Bissette referred the lawsuit to the City Attorney for investigation and recommendation.

VII. ADJOURNMENT

Mayor Bissette adjourned the meeting at 6:10 p.m.

MAYOR

CITY CLERK

Tuesday - November 21, 1989 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, and Russell Martin; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman A. Robert York and Councilman Wilhelmina Bratton

INVOCATION

The invocation was given by Councilman Frank.

APPROVAL OF MINUTES

Mayor Bissette announced the approval of the minutes of the November 14, 1989 meeting as submitted.

I. PROCLAMATIONS:

A. Resolution No. 89-165 - Resolution of Appreciation to Retiring Employee, Barbara Williamson.

Mayor Bissette read the resolution stating that this resolution expresses appreciation for Barbara Williamson's years of service with the City of Asheville. Ms. Williamson retired effective November 1, 1989.

Jim Ewing, Director of Public Works, introduced Ms. Williamson and told Council that she was retiring from the City after 12 years of service in the Public Works Department.

Upon motion of Vice Mayor Michalove, seconded by Councilman Frank, Resolution No. 89-165 was unanimously adopted.

Mayor Bissette presented Barbara Williamson with the resolution.

Resolution Book No. 18 Page No. 27

II. PUBLIC HEARINGS:

III. OLD BUSINESS:

A. Ordinance No. 1801 - Third reading on ordinance amending Article 9. Sign Regulations of the Code of Ordinances of the City of Asheville.

Mayor Bissette said the Asheville Planning and Zoning Commission on September 27, 1989 moved to forward their recommendations to City Council in the form of an addendum along with the complete, unabridged text of the Asheville Sign Commission's "Draft Sign Ordinance" A public hearing was held on the proposed Sign Regulations on October 24, 1989. This ordinance was read on first reading on November 7, 1989 and on second reading on November 14, 1989 with amendments.

Mayor Bissette announced that Council is still working on the ordinance and will go back to their work session on the ordinance at the conclusion of today's meeting. He said Council is trying to finalize their work by next Tuesday and will expect to have the third reading of the ordinance at that time. Mayor Bissette said he knew some citizens had attended today's meeting with the intention of addressing the Sign Ordinance. Therefore, he said, the Council would hear their comments, but requested that their remarks be limited to new information.

Attorney Charles Worley read a letter from his client Wayne Kinser. The letter expressed Mr. Kinser's opposition to the proposed ordinance based on its failure to compensate sign owners for their property. He said it had long been a principal of our country that private property cannot be taken from its owner without just compensation. He said it would be wrong to require that all nonconforming signs be removed the day after the passage of the ordinance without paying a fair compensation to the sign owner. He said this would be the same thing as the City taking two-thirds of somebody's front yard to widen the road, but saying that since it would not be taken for eight years, the person would not be entitled to compensation for the loss of his yard. He suggested that the City amortize the cost of compensation over an 8-year period and pay that cost on an annual basis by issuing ad valorem tax credits to owners equal to one-eighth of the appraised value. Another alternative suggested in Mr. Kinser's letter was that the City issue tax credits at the end of the 8-year period for those signs still existing that must then be removed.

Attorney Albert Sneed, speaking on behalf of Summey Outdoor Advertising Company, urged Council to reconsider and not adopt the proposed Sign Ordinance.

Upon inquiry of Vice Mayor Michalove, City Attorney William F. Slawter said he was not aware of any provision that would permit the City to forgive taxes or issue tax credits.

Councilman Price moved to continue the third reading of Ordinance No. 1801 until the November 28th meeting. This motion was seconded by Councilman Martin and carried unanimously.

B. **Ordinance No. 1762 - Third reading on ordinance amending Article 13 of Chapter 30 of the Code of Ordinances of the City of Asheville to create the Albemarle Park Historic District.**

Mayor Bissette said the Asheville Planning and Zoning Commission on September 27, 1989, again reviewed the request of the Albemarle Park-Manor Grounds Association, through the Historic Resources Commission, that their area be designated a local historic district. The Commission again voted to recommend approval of the designation and to exclude the property on Charlotte Street south of the Gatehouse zoned CG Commercial General. A public hearing was held on this matter on October 31, 1989. The first and second readings of the ordinance have been held including Lots 71, 91, 70, and 99 in the Historic District and to exclude Lots 72 and 73.

Mayor Bissette said because of the protest petitions that have been filed, the reading of this ordinance will require a three-fourths vote - six of seven councilman and that only five members are present today. He said Councilman York is somewhere on the Atlantic Ocean on a trip that had been planned for over a year. He said Councilman Bratton had called in and could not be present. Therefore, he said, the Council could not proceed with the scheduled third reading.

Several persons expressed disappointment that Council could not proceed with the scheduled third reading and requested that every effort be made for all Council Members to be present at next week's meeting so action could be taken on the matter.

Councilman Frank moved to continue the third reading of the ordinance until the November 28th meeting. This motion was seconded by Councilman Martin and carried unanimously.

C. Ordinance No. 1802 - Second reading of Ordinance amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville," as amended, Kenneth and Jacksie Pitts, Petitioners, property located at 95 Cherry Street

Mayor Bissette said the Asheville Planning and Zoning Commission on October 4, 1989, voted to recommend to City Council that Ward 3, Sheet 2, Lots 271 and 272, be rezoned from R-4 Residential District to CBD Central Business District. Petitioners had requested rezoning from R-4 Residential District to CH Commercial Highway District. This ordinance was read on first reading on November 14, 1989.

Mayor Bissette said this ordinance was previously read on first reading and would not be reread in its entirety.

On a roll call vote of 5-0, Ordinance No. 1802 passed on second reading.

IV. NEW BUSINESS:

A. Ordinance No. 1805 - Budget Amendment appropriating funds received from Appalachian Regional Commission for Foreign Trade Zone Feasibility Study

Mayor Bissette said this budget amendment will appropriate $4,960 received through the Appalachian Regional Commission for the Economic Development Task Force of the Asheville Area Chamber of Commerce to conduct a Foreign Trade Zone Feasibility Study.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Price moved for adoption of Ordinance No. 1805. This motion was seconded by Vice Mayor Michalove.

On a roll call vote of 5-0, Ordinance No. 1805 passed on first and final reading.

Ordinance Book No. 12 Page No. 47

B. Resolution No. 89-166 - Resolution authorizing the Mayor to execute an easement in favor of Dennis J. Dewitt and Ann Dewitt Brooks (North Fork Watershed Reservoir Property).

Mayor Bissette said this resolution will authorize the Mayor to execute a right-of-way easement for a roadway over a portion of the North Fork Watershed Reservoir.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Martin, seconded by Councilman Frank, Resolution No. 89-166 was unanimously adopted.

Resolution Book No. 18 Page No. 28

V. CONSENT:

A. Resolution No. 89-167 - Resolution appointing member to Asheville-Buncombe Crime Stoppers Committee.

Mayor Bissette said this resolution will appoint Joe Haight as a member of the Asheville-Buncombe Crime Stoppers Committee for a term expiring June 30, 1990.

Resolution Book No. 18 Page No. 29

B. Resolution No. 89-168 - Resolution appointing member to the Tourism Development Authority.

Mayor Bissette said this resolution will reappoint Mrs. Barbara McEwan as a member of the Tourism Development Authority

Resolution Book No. 18 Page No. 30

Upon motion of Vice Mayor Michalove, seconded by Councilman Frank, the consent agenda was unanimously approved.

VII. OTHER BUSINESS:

A. Ordinance No. 1806 - Ordinance amending Section 25-5 of the Code of Ordinances of the City of Asheville (Explosive Devices

The City Manager presented an ordinance amending Section 25-5 of the Code of Ordinances of the City of Asheville to regulate the sale of merchandise upon public streets except by permit duly issued by the City Manager or his designee and prohibiting the sale of fireworks or other explosive devices and prohibiting the discharge of explosive devices in public areas.

Upon inquiry of Council, City Attorney William F. Slawter said the penalty for violation of the ordinance would be a $50.00 or 30 days in jail, and that the ordinance would become effective upon its adoption.

Vice Mayor Michalove moved for the adoption of Ordinance No. 1806. This motion was seconded by Councilman Martin.

On a roll call vote of 5-0, Ordinance No. 1806 passed on first reading.

Vice Mayor Michalove moved to suspend the rules and proceed to the second reading of ordinance No. 1806. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 5-0, Ordinance No. 1806 passed on second reading.

Vice Mayor Michalove moved to suspend the rules and proceed to the third and final reading of ordinance No. 1806. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 5-0, Ordinance No. 1806 passed on third reading.

Ordinance Book No. 12 Page No. 48 - 49

B. **Motion rescinding the resolution adopted on November 14, 1989 appointing Councilman Martin to the Alcoholic Beverage Control Board and to replace it by motion to appoint Councilman Martin to the ABC Board effective December 6, 1989**

Councilman Price moved to rescind the resolution of November 14th appointing Councilman Martin to the ABC Board and to replace it by motion to appoint Councilman Martin to the ABC Board effective December 6, 1989. This motion was seconded by Vice Mayor Michalove and carried unanimously.

C. **Indemnification Agreement - Light Up Your Holidays Festival - Use of Biltmore Building for Santa Claus**

Councilman Martin moved to authorize the City Manager to execute an indemnification agreement for the use of the Biltmore Building in downtown Asheville for the set up and landing of Santa Claus at the Children's Celebration of the Light Up Your Holidays Festival from 12:00 Noon to 8:00 p.m. on Saturday, December 2, 1989. This motion was seconded by Councilman Frank and carried unanimously.

D. **Claims - Donald Bleasdale (Water) - Jack Simonds (Water) - John Carroll (Streets) - Carolyn Davies (Sewer) - Belinda Crooks (Sewer) - Jack Ferguson (Water) - Katherine Henry (Water) - Alice Bunn (Streets)**

The City Manager presented claims received from Donald Bleasdale, Jack Simonds, John Carroll, Carolyn Davies, Belinda Crooks, Jack Ferguson, Katherine Henry, and Alice Bunn.

Mayor Bissette referred the claims to the City Attorney for investigation and recommendation.

E. **Lawsuit - Ronnie M. Riddle (Civil Service Board)**

The City Manager said the City was served with a lawsuit on November 14, 1989 involving Ronnie Riddle regarding an appeal from Civil Service Board decision.

Mayor Bissette referred the lawsuit to the City Attorney for investigation and recommendation.

F. **Ralph Bishop - Lottery Sales**

Ralph Bishop inquired of Council whether or not there was a law exempting the City of Asheville from enforcing the lottery laws. City Attorney William F. Slawter said he was not aware of any legislation exempting enforcement of the lottery laws.

VIII. ADJOURNMENT.

Mayor Bissette adjourned the meeting at 4:55 p.m.

MAYOR

CITY CLERK

Tuesday - November 28, 1989 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, and Russell Martin; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman A. Robert York

INVOCATION

The invocation was given by Councilman Bratton.

APPROVAL OF MINUTES

Mayor Bissette announced the approval of the minutes of the November 21, 1989 meeting as submitted.

Student Representative Program

Assistant City Manager Charles Penny said several months ago Councilman Martin made a proposal to implement a new Student Representative Program whereby two students from Asheville High School attended Pre-Council and Council meetings each week. He said the program has now been started and he introduced Kendal McDevitt, Vice-President of the Student Body and Termain Kyle, President of the Student Body in attendance at the meeting. He said the students are from the Leadership Class at Asheville High School and would attend four Council meetings then students would be rotated.

Councilman Martin said he felt the program would promote participation and interest in local government on the high school level. He said he felt it would also get parents and relatives involved in local government and hoped the program would be beneficial for the coming years.

I. PROCLAMATIONS:

A. **Resolution No. 89-170 - Resolution of Appreciation to Retiring Employee, Norma Reid.**

Mayor Bissette read a resolution expressing appreciation to Norma Reid, retiring employee. Norma Reid has been a Secretary Senior since November, 1954 (35 years) and will be retiring December, 1989.

Upon motion of Vice-Mayor Michalove, seconded by Councilman Price, Resolution No. 89-170 was unanimously adopted.

Resolution Book No. 18 Page No. 32

B. **Proclamation - "Toys for Tots Parade Day" - December 2, 1989**

Mayor Bissette read the proclamation and presented it to Dana Stevens who explained the parade route and said they would be collecting toys for 2,000 children for Christmas.

II. PUBLIC HEARINGS:

A. Public hearing - rezoning property located on Springvale Avenue for Cleo and John Wilson and Loraine Hensley.

Ordinance No. 1807 - An Ordinance providing for the zoning of the City of Asheville, as amended, rezoning property located on Springvale Avenue at the request of Cleo and John Wilson and Loraine Hensley.

Mayor Bissette said the Asheville Planning and Zoning Commission on November 1, 1989, reviewed and recommended approval of rezoning Lots 4, 101, 104, 114 and 125, Sheet 16, Ward 7, from R-3 Residential District to LI Light Industrial District.

Mayor Bissette opened the public hearing at 4:34 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Carol Alberice, from the Planning Department, reviewed the rezoning request and the current zoning surrounding the property in question. She showed a video of the property requested to be rezoned.

Mayor Bissette closed the public hearing at 4:39 p.m.

Mayor Bissette said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Vice-Mayor Michalove moved for the adoption of Ordinance No. 1807. This motion was seconded by Councilman Frank.

On a roll call vote of 6-0, Ordinance No. 1807 passed on first reading.

III. OLD BUSINESS:

A. **Ordinance No. 1802 - Third reading of Ordinance amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville," as amended, Kenneth and Jacksie Pitts, Petitioners, property located at 95 Cherry Street.**

Mayor Bissette said the Asheville Planning and Zoning Commission on October 4, 1989, voted to recommend to City Council that Ward 3, Sheet 2, Lots 271 and 272, be rezoned from R-4 Residential District to CBD Central Business District. Petitioners had requested rezoning from R-4 Residential District to CH Commercial Highway District. This ordinance was read on first reading on November 14, 1989 and on second reading on November 21, 1989.

Mayor Bissette said the ordinance was previously read on first and second reading and would not be reread in its entirety.

On a roll call vote of 6-0, Ordinance No. 1802 passed on third and final reading.

Ordinance Book No. 12 Page No. 44

B. **Ordinance No. 1801 - Third reading on ordinance amending Article 9. Sign Regulations of the Code of Ordinances of the City of Asheville.**

Mayor Bissette said the Asheville Planning and Zoning Commission on September 27, 1989 moved to forward their recommendations to City Council in the form of an addendum along with the complete, unabridged text of the Asheville Sign Commission's "Draft Sign Ordinance" A public hearing was held on the proposed Sign Regulations on October 24, 1989. This ordinance was read on first reading on November 7, 1989 and on second reading on November 14, 1989 with amendments.

Mayor Bissette said members of Council are still in the process of reviewing the ordinance and is trying to finalize the ordinance before the third reading. He said Council wants the document in final form for legal

review as well as the public having an opportunity to review the ordinance. He said for those reasons the third reading of the ordinance is being deferred until Monday, December 4, 1989 at 4:00 p.m. He said copies of the final ordinance will be available in the Mayor's Office on Friday, December 1, 1989.

Patsy Brison, Staff Attorney, highlighted the main provisions of the ordinance.

Wayne Kinser, 87 West Oakview Road, speaking in opposition to the proposed sign ordinance, said the ordinance would adversely affect businesses and would be taking property without just compensation which is prohibited by the Constitution of the United States. He said an economic impact study of the ordinance should be conducted prior to adoption. He also questioned whether or not an individual would have a right to appeal a decision of the ordinance to the Board of Adjustment after adoption or whether they have to wait until after the five to seven year amortization period.

The City Attorney said in his opinion an individual could appeal a decision to the Board of Adjustment after adoption of the ordinance.

Ralph Bishop spoke in opposition to the proposed ordinance.

Paul Young, owner of several businesses, including two Shoney's Restaurants, spoke in opposition to the ordinance. He said the ordinance would allow the City to take property without just compensation.

James Young also spoke in opposition to the ordinance stating that the ordinance would create a loss in sales tax and business growth.

Albert Sneed, Attorney representing Summey Sign Company, said he felt an economic impact study is needed before the proposed ordinance is adopted. He also said the Council should have reviewed the "Baltimore Study" prior to adopting the ordinance.

Mike Summey, Summey Sign Company, spoke in opposition to the proposed ordinance, stating that in his opinion it is not right or legal.

Mr. Moutos, from The Mountaineer Inn on Tunnel Road, spoke in opposition to the ordinance.

Mayor Bissette informed Mr. Moutos that Council is making provisions in the ordinance for historic signs.

Dick King, businessman located in the Clyde Savings and Loan Building, said the City should enforce the current sign ordinance and assess the current ordinance prior to adoption of a new ordinance.

Tony Kern, Manager of two Pizza Huts, questioned whether or not his signs would be in compliance with the proposed ordinance.

Kevin Tomlin, also a Manager of Pizza Hut, requested that some provision be made for "informational signs".

Jim Hughes spoke in opposition to the ordinance stating that it is not fair for Council to make provisions for historic signs and not other businesses.

Dennis Hudson, spoke in favor of the proposed ordinance, stating that the intent of the ordinance is not to do away with signs but to bring them down to a sensible size.

Lennie Sitnick, 90 Getrude Place, said she felt an economic impact study should be done to determine what effect the ordinance would have on business owners.

Phil Carson, Attorney, 72 Patton Avenue, said the proposed ordinance is responsive to the needs of the community and has been reviewed and recommended by the Sign Commission and the Planning and Zoning Commission. He said both these commissions worked long and hard months on the proposed ordinance.

There being no further comments, Mayor Bissette said the ordinance would be considered on third reading on Monday, December 4, 1989 at 4:00 p.m.

C. **Ordinance No. 1762 - Third reading on ordinance amending Article 13 of Chapter 30 of the Code of Ordinances of the City of Asheville to create the Albemarle Park Historic District.**

Mayor Bissette said the Asheville Planning and Zoning Commission on September 27, 1989, again reviewed the request of the Albemarle Park-Manor Grounds Association, through the Historic Resources Commission, that their area be designated a local historic district. The Commission again voted to recommend approval of the designation and to exclude the property on Charlotte Street south of the Gatehouse zoned CG Commercial General. A public hearing was held on this matter on October 31, 1989. The first and second readings of the ordinance have been held including Lots 71, 91, 70, and 99 in the Historic District and to exclude Lots 72 and 73.

Vice-Mayor Michalove moved to go into executive session to discuss a legal matter. This motion was seconded by Councilman Frank and carried unanimously.

Mayor Bissette said the County of Buncombe has not changed their original protest petition; therefore, the ordinance before Council would require six affirmative votes for adoption.

Councilman Bratton said she had given this matter extensive thought and study. She said she agreed that the Albemarle Park area is very historic and probably should be made an historic district; however, she has a problem forcing property owners to become a part of the historic district if they do not want to be included.

Lennie Sitnick suggested that the property owners that did not want to be included provide some type of deed restriction to preserve the neighborhood.

Jane Matthews requested that all the properties be included in the historic district including the six (6) lots facing on Charlotte Street.

Rick Matthews, President of Albemarle Park Association, said he was dismayed at Councilman Bratton's decision. He also requested that all the properties be included in the Historic District.

Ann Cross, local Realtor, said Council should respect the business owners in our community.

Albert Sneed, Attorney representing Jim Daniels, owner of lots facing on Charlotte Street, said his client does not want his property to be included in the historic district.

Ann Craig, resident of Murdock Avenue, spoke in favor of the historic district.

On a roll call vote of 5-1, Ordinance No. 1762 failed with Councilman Bratton voting "no".

Councilman Frank moved to reconsider Ordinance No. 1762 and to amend the ordinance to exclude Lots 99, 91, 72 and 73 and to include Lots 70 and 71 in the Albemarle Park Historic District. This motion was seconded by Councilman Martin and carried unanimously.

Mayor Bissette said with this motion the ordinance could be adopted with a simple majority vote.

On a roll call vote of 6-0, Ordinance No. 1762, as amended passed on third and final reading.

Ordinance Book No. 11 Page No. 441 - 444

IV. NEW BUSINESS:

A. Ordinance No. 1808 - Budget Ordinance Amendment to establish grant appropriation for Project HAND.

Mayor Bissette said Project HAND is a Police and Housing Authority effort to reduce the criminal use and abuse of drugs in Asheville's Public Housing communities.

Councilman Martin moved for the adoption of Ordinance No. 1808. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1808 passed on first and final reading.

Ordinance Book No. 12 Page No. 51

B. Motion amending Fees and Charges Manual increasing taxi cab rates.

Charles Penny, Assistant City Manager, said representatives from the cab companies have requested that the Asheville City Council consider a rate increase for taxi cab fares. Review of city ordinances indicates that the last rate increase occurred on March 27, 1980. The taxi cab owners would like to recommend that the rates be increased to $1.50 for pickup and $.15 for each additional 1/10 mile. The current charges are $1.05 for pickup and $.10 for each additional 1/10 mile.

The justification for the rate increase is based upon the fact that the City has not had an increase in the taxi cab fares in a period of eight (8) years; however, the cost of operating the taxis has certainly risen during that period of time. Taxi cab owners complained of very high liability insurance per car, and a check with the City's contract risk manager indicated that it would not be unusual for taxi cab owners to pay as much as $2,000.00 per car for liability insurance. The taxi cab owners also stated that Asheville's economy does not provide for a year around balance of business. During the winter, their business drops to about a third of what it is during the rest of the year.

Listed below are a comparison of the rates charged in other cities, and the cost of a 3 mile trip in those cities.

3 MILE TRIP

Raleigh	1/6 = $.75 + $.20 for each additional 1/6 mile .75 + $3.40 = $4.15
Greensboro	1/6 = $1.15 + $.20 for each additional 1/6 mile 1.15 + $3.40 = $4.55
Durham	1/6 = $.95 + $.10 for each additional 1/11 mile .95 + $3.00 = $3.95
Winston-Salem	1/10 = $1.20 + $.20 for each additional 1/6 mile 1.20 + $3.20 = $4.40
High Point	1/6 = $1.20 + $.20 for each additional 1/6 mile 1.20 + 3.40 = $4.60
Wilmington	1/6 = $1.00 + $.20 for each additional 1.6 miles 1.00 + $.40 = $1.40
Fayetteville	1.10 = $1.10 + $.12 for each additional 1/10 mile $1.10 + 2.28 = 3.38
Asheville	1/10 = $1.05 + $.10 for each additional 1/10 mile. $1.05 + $2.90 = $3.95
Greenville, SC	1/10 = $1.25 + $.10 for each additional 1/10 mile. $1.25 + $2.90 = $4.15
Charlotte, NC	1/10 = $2.25 + $.11 for each additional 1/10 mile. $2.25 + $2.90 = $5.15
Atlanta, GA	1/10 = $1.50 + $.15 for each additional 1/10 mile. $1.50 + $4.35 = $5.85

It is recommended that the new rate, if approved, become effective on January 1, 1990.

Other Concerns

A) In another meeting with the taxi cab companies a number of other suggestions have been recommended as far as rates are concerned; however, for the purpose of this Council meeting recommendations are not being submitted for any action but for future consideration. One recommendation was the implementation of a night surcharge. In some cities an additional charge is added to the fare for night pick-ups.

B) Due to the growth of the City as a result of annexation, it has been suggested that the City look at implementing zone charges. The zone charges would compensate taxi cab companies for going certain distances to pick up a fare. A prime example for the need for this change is as follows: A taxi cab is dispatched from the center of downtown to the Ingle's in Oteen. The person that is being serviced by the taxi cab company wants to go from the Ingle's over to LaMancha Apartments to take their groceries home, and the fare would amount to $1.35 under the city's current charges.

Under the recommended increase, the taxi cab company would receive approximately $1.65 for that pickup, therefore, the taxi cab companies owners do not feel they are recovering the costs of operations on the trip. The implementation of the zone chart would mean if you cross a certain number of zones you would be compensated $.50 or $1.00 for each zone you crossed.

C) Taxi cab owners continue to struggle with the ordinance requirement as it relates to physical exams for drivers. The owners stated that it is very difficult to have drivers because before a person can actually become a driver, he must spend $75.00 for a physical exam before they have even had an opportunity to make any money as a taxi cab driver. This has reduced the number of drivers available to the companies. The taxi cab companies would like for us to check and see what other cites require in reference to physical exams for their taxi cab drivers, and at some point, the taxi cab owners may be asking City Council for a change in this part of the ordinance.

D) The taxi cab companies are also interested in seeing if other cities assist cab companies with the insurance crunch.

Councilman Price said she needed time to study this request and would like to consider all recommendations as a package.

Glenn Queen, Taxi cab owner, spoke in favor of the rate increase and the recommended changes to the ordinance. He said it was very difficult to get taxi cab drivers when they have to pay $75.00 for a physical before driving a taxi cab.

David Davis, Beaver Lake Cab Company, said the taxi cab operators have to have an increase in order to remain in operation. He requested that Council go ahead and grant the rate increase and deal with the other recommended changes at a later date.

Mike Plemmons, with the Council for Independent Business Owners, spoke in favor of the rate increase stating that taxi cab operators have not had an increase in nine (9) years and they are deserving of an increase.

Termain Kyle, student representative, said Council should also consider the type of individuals that have to ride a taxi. He said most of them can not afford that large of an increase.

Joe Penland, Blue Bird Taxi Cab Company, said this is an emergency situation. He said he could not remain in business without a rate increase.

Several Council members said they needed a work session on this issue before voting.

Vice-Mayor Michalove said the new Council would study this request in an effort to have some type of increase go into effect by January 15, 1990. He said members of Council would like to receive public input into this matter.

C. Resolution No. 89-171 - Resolution authorizing execution of a Community Development Agreement with Hospitality House of Asheville, Inc. for a transitional shelter for the Homeless.

Mayor Bissette said the agreement will authorize acquisition and rehabilitation of an existing structure to be used as a transitional shelter for the homeless. The project will be administered by Hospitality House of Asheville, Inc.

Upon motion of Councilman Bratton, seconded by Councilman Price, Resolution No. 89-171 was unanimously adopted.

Resolution Book No. 18 Page No. 33

V. CONSENT:

A. Resolution No. 89-172 - Resolution establishing the name of the new park area located between South Charlotte Street and Martin Luther King, Jr. Drive as "Martin Luther King, Jr. Park"

Mayor Bissette said a petition has been received with over 200 signatures and a letter from the Martin Luther King, Jr. Birthday Activities Planning Committee requesting that the park area located on Martin Luther King, Jr., Drive and South Charlotte Street be named the "Martin Luther King, Jr. Park."

Resolution Book No. 18 Page No. 34

B. Resolution No. 89-173 - Resolution authorizing execution of a quit claim deed for an unnamed alley.

Mayor Bissette said L. Burt Stanford, Sr., and wife, Jean H. Stanford, own property on Broadway, at its northwestern intersection with Starnes Avenue. A 16 foot alley to the rear of the Stanford property extends

for the entire length of the Stanford property. The only adjacent property owners, Byrl W. Young and wife, Nina Young, have executed a non-warranty deed, conveying all rights to the alleyway to the Stanfords. The Stanfords have requested that the City do the same. The City has no ownership interest in the property, other than by virtue of a plat recorded in 1920. The alley does not appear to have ever been opened or used by the public.

Resolution Book No. 18 Page No. 35

C. Scheduling public hearing for minority business goals for December 12, 1989.

Mayor Bissette said this action will schedule the public hearing for December 12, 1989.

Upon motion of Councilman Bratton, seconded by Councilman Frank, the consent agenda was unanimously approved.

VII. OTHER BUSINESS:

A. Claims - Pat Stines (Streets) - Harold Weaver (Streets) - Esther Hardy (Sewer) - Larry Pope (Sewer)

The City Manager presented claims received from Pat Stines, Harold Weaver, Esther Hardy, and Larry Pope.

Mayor Bissette referred the claims to the City Attorney for investigation and recommendation.

VIII. MEETING CONTINUED - December 4, 1989

Vice-Mayor Michalove moved to continue the meeting until Monday, December 4, 1989 at 4:00 p.m. This motion was seconded by Councilman Frank and carried unanimously.

MAYOR

CITY CLERK

Continued Meeting from November 28, 1989

Monday - December 4, 1989 - 4:00 P.M.

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Kenneth M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, and Russell Martin; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman A. Robert York

INVOCATION

The invocation was given by Councilman Martin.

I. PROCLAMATIONS:

II. PUBLIC HEARINGS:

III. OLD BUSINESS:

A. Ordinance No. 1801 - Third reading of ordinance amending Article 9. Sign Regulations of the Code of Ordinances of the City of Asheville.

Mayor Bissette said the Asheville Planning and Zoning Commission on September 27, 1989 moved to forward their recommendations to City Council in the form of an addendum along with the complete, unabridged text of the Asheville Sign Commission's "Draft Sign Ordinance". A public hearing was held on the proposed Sign Regulations on October 24, 1989. This ordinance was read on first reading on November 7, 1989 and on second reading on November 14, 1989 with amendments.

Mayor Bissette said the final version of the Sign Ordinance has been distributed to members of Council and available for public review since Friday afternoon.

The City Manager reviewed the following report relative to sign administration:

268-B

MEMORANDUM TO: Mayor Bissette and Members of City Council

FROM: Douglas O. Bean
City Manager

DATE: November 28, 1989

SUBJECT: Sign Administration

Upon the adoption of a new sign ordinance, the staff is prepared to begin administration of a comprehensive sign program. This program will include not only enforcement of the newly adopted ordinance, but will also include a number of activities designed to deal with governmental signage. Our program for sign administration is generally as follows:

SIGN SURVEY - It is important that immediately upon adoption of the new ordinance that a comprehensive sign survey be undertaken. All signs will be inventoried and data will be collected on the size, height, setback, etc. It is anticipated that it will take approximately six (6) months to do the field work at a cost of approximately $40,000. As the field work is being completed, all of the information needs to be entered into a computer so that it can be readily available and kept current. The cost for data entry and a computer system is approximately $20,000.

ENFORCEMENT COSTS - In order to adequately enforce a new sign ordinance we estimate that there will be an annual operating cost of approximately $54,000. In the present year's budget we have a position for another enforcement officer. Rather than giving the entire sign enforcement duties to one individual, however, it will be divided among all of the zoning enforcement officers with one being designated as the Sign Enforcement Officer.

Not included in this budget are additional legal fees. On a continuing basis we feel that we need a part time paralegal to work on sign violations. Even though a paralegal is only needed part time in this department, we feel that a full time individual could be utilized for other civil processes that we have within the City. We anticipate that we can evaluate all of our needs during the coming budget preparation for a paralegal and budget the appropriate full or part time expenses in the 1990-1991 annual operating budget. Also not included in the enforcement budget are any legal fees incurred from defending law suits brought against the ordinance.

GOVERNMENTAL SIGNAGE - A committee consisting of city staff and a representative from the Streetscape Task Force has been meeting on the issue of governmental signage. A final report should be completed and a recommendation should be before the Council in early January from the Downtown Commission. This committee has been charged with looking at both design and location of governmental signage in the downtown and on major arteries. Specifically, a standard design with a City logo is envisioned for identification of attractions and parking. New street signs are also being designed to give a standard look for City signs. In addition, beginning in the downtown area a block by block comprehensive look at all governmental signage will be undertaken with the goal of eliminating and consolidating as many signs as possible using design guidelines.

STREET NUMBERS ON BUILDINGS - It is a requirement of the City code that all buildings have an easily identifiable street number. The Fire Department has been working over the past year to ensure compliance with this requirement. To date, all businesses at the time of their annual inspection were notified of any violations. During the coming year, should a violation be noted at the annual inspection, citations will be issued.

All apartments have also been notified by fire companies during their pre-fire planning. Fire inspectors are following up on any apartment buildings that do not have a street number, and during the coming year, citations will be issued to those who are in noncompliance.

There has been a mass mailing in the water bills informing businesses and home owners of the necessity of having a street number. Beginning in January, fire companies in their district will be going door to door to inform people of the need to have a house number displayed. Within the next twelve months all residents will have been contacted about this requirement.

FEES AND CHARGES - Based on our estimated cost of administering the sign ordinance, we feel that a permit fee of $2.03 per square foot would provide us with a 100% cost recovery. The Sign Commission recommended that the fee schedule be changed from the current schedule that charges based on the estimated cost of the sign, to a square footage basis. Since there is not adequate documentation on sign costs, using square footage as the basis for a permit is much easier to administer. Using a square footage cost the maximum fee for a 300 square foot sign would be $609.00. Based on the current schedule, a 300 square foot billboard costing approximately $20,000 would have a fee of $150. As we calculated the actual fee for other signs we found that some of the smaller signs would see a reduction in fee and most other signs would see a moderate increase. The fee schedule is not in the ordinance but will need to be adopted as an amendment to the City's Fees and Charges manual which is reviewed on an annual basis.

Patsy Brison, Staff Attorney, reviewed the recommended technical changes to the proposed Sign Ordinance.

Councilman Price moved to amend Ordinance No. 1801 to reflect the changes outlined by the Staff Attorney. This motion was seconded by Councilman Frank and carried unanimously.

The following additional people spoke "for" or "against" the proposed Sign Ordinance:

Against

Kim Walker, Naegle Outdoor Advertising Company
Albert Sneed, Attorney for Summey Outdoor Advertising
William Lindsey, Shoney's Rest.
Bob Lawrence - 265 Broadway Avenue
Mike Summey - Summey Outdoor Adv.
David Shulman
Jerry Hobbs - Auto Haus of Asheville
Colin Hudson
John Stewart - Building Contractor
Curtis Shoaf- Skyland Oldsmobile
Ed Shoaf - Skyland Oldsmobile
Jerry Sternberg
George Morosani - local businessman
Frank Graham, Attorney for Naegle Outdoor Advertising Company and member of Sign Commission
Bill Fishburne - ComputerLand
Wayne Kinser - Hilton Inn
Doug Penland - Enka Portable Sign Company
Robert Jolley - Asheville Business Leaders Association

For

Jerry Grant - Member of Sign Commission
Roger McGuire - 60 Haywood Street
Richard Coleman, Jr. - Asheville Mall
Sonya Fredrick - College and Charlotte Street
Jack Cecil - Biltmore Company
Dr. Steve Davis - 16 Chiles Avenue
Robert Carr - 370 Midland Drive
Shirley Birdie - League of Women Voters
Linn Brown - 62 Macon Avenue
Elaine Taylor - 4 Maplewood Parkway
Phil Carson - Attorney - 72 Patton Avenue
Lennie Sitnick - Gertrude Place
Steve Henry

Mike Moser, Chairman of the Planning and Zoning Commission, said he felt Council has a moral obligation to adopt a procedure for notifying sign owners and property owners of nonconforming uses or structures. He requested that Council adopt a resolution as recommended by the Commission to this effect. He also requested that Council delete the following provisions in the proposed Sign Ordinance from the "draft dated 12/4/89-2"; Page 24 - Item (c); Page 33 - Item (c) and (e); and Page 10 relative to Delivery Signs. He said an incentive plan should also be adopted.

After discussion, Vice-Mayor Michalove moved to amend Ordinance No. 1801 - Section 30-9-4 (B) to read as follows: "B. Portable or Moveable Display Signs erected on or after July 31, 1990. Between the effective date of this Article and July 31, 1990, portable or moveable display signs shall be allowed in Commercial Service, Commercial Highway, Light Industrial and Heavy Industrial zoning districts for no more than thirty (30) consecutive calendar days during any ninety (90) day period. Following the expiration of said ninety (90) day period which shall begin with the date specified on the appropriate sign permit, subsequent temporary sign permits may be applied for and issued. The size of the sign shall be limited to fifty (50) square feet per face and only one (1) sign shall be allowed per lot for single tenant development and only two (2) signs shall be allowed per lot for multiple tenant development." and that Section 30-9-10 Nonconforming Signs (B) paragraph 5 and 6 be amended to read as follows: - Paragraph 5 - "All portable and moveable display signs (and their sign structures) which are made nonconforming as a result of the passage of this Article or from the passage of an amendment to this Article, or the official zoning map, shall be removed on or before October 30, 1990." - Paragraph 6 - "All temporary signs (and their sign structures) which are made nonconforming as a result of the passage of this Article or from the passage of an amendment to this Article, or the official zoning map, shall be removed within ninety days (90) of the effective date of this Article." This motion was seconded by Councilman Martin and carried unanimously.

Vice-Mayor Michalove requested that the City Manager complete the sign survey and notification process within six (6) months.

On a roll call vote of 6-0, Ordinance No. 1801, as amended passed on third and final reading.

Vice-Mayor Michalove moved to amend the Fees and Charges Manual to reflect the following Fee Schedule for Sign Permit Fees:

Fee Schedule

$1.50 per square foot of signage, minimum $25.00
Temporary Sign - $10.00
Re-inspection fee - $25.00 for each re-inspection
Late fee - 2 times the specified fee

The above fees do not include electrical permit fees, which shall be in addition to the above.

This motion was seconded by Councilman Price and carried unanimously.

IV. NEW BUSINESS:

V. CONSENT:

VI. OTHER BUSINESS:

VII. ADJOURNMENT

Mayor Bissette adjourned the meeting at 7:30 p.m.

J. L. Michalove
MAYOR

William D. Holcomb
CITY CLERK

Tuesday - December 5, 1989 - 4:00 P.M.

ORGANIZATIONAL SESSION:

Mayor Louis Bissette opened the meeting and turned the Mayor's gavel over to Kenneth M. Michalove, Mayor-elect.

Mayor-elect Kenneth M. Michalove welcomed everyone to the organizational session and introduced Dr. L. C. Ray, Minister of the Greater New Zion Baptist Church of Fletcher who gave the invocation.

Judge Earl J. Fowler administered the Oath of Office to the following:

Mayor Kenneth M. Michalove
Councilman Wilhelmina B. Bratton
Councilman Eugene W. Ellison
Councilman William W. Estes
Councilman Mary Lloyd Frank
Councilman William G. Moore
Councilman Norma T. Price

Resolution No. 89-174 - Resolution of appreciation for Councilman Russell M. Martin.

Mayor Michalove read the resolution.

Upon motion of Councilman Ellison, seconded by Councilman Price, Resolution No. 89-174 was unanimously adopted.

Mayor Michalove presented Councilman Martin with the resolution, a plaque, and his name plate.

Resolution Book No. 18 - Page 36

Resolution No. 89-175 - Resolution of appreciation for Councilman A. Robert "Bob" York.

Mayor Michalove read the resolution.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 89-175 was unanimously adopted.

Since Councilman York is out of the country, Mayor Michalove presented Becky York with the resolution, a plaque, and Councilman York's name plate.

Resolution Book No. 18 - Page 37

Resolution No. 89-176 - Resolution of appreciation for Mayor W. Louis Bissette, Jr.

Mayor Michalove read the resolution.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 89-176 was unanimously adopted.

Mayor Michalove presented Mayor Bissette with the resolution, a plaque, and his name plate.

Mayor Michalove also unveiled Mayor Bissette's picture to be placed on the walls along with all other former Mayors.

Resolution Book No. 18 - Page 38

Election of Vice-Mayor

Councilman Price moved that in the event there are more than two nominees for Vice-Mayor that after the third vote only the two individuals receiving the highest number of votes be considered. This motion was seconded by Councilman Ellison and carried unanimously.

Councilman Price nominated Councilman William G. Moore as Vice-Mayor of the City of Asheville.

Councilman Ellison moved that the nominations be closed. This motion was seconded by Councilman Price and carried unanimously.

On a voice vote, Councilman Moore was unanimously elected as Vice-Mayor.

Mayor Michalove said the unanimous vote shows unity and solid leadership for 1990.

Councilman Bratton requested that a procedure be established for the office of the Vice-Mayor during the next two years. She said Council should not have to go through such a divisive decision to start a term of office.

Councilman Estes and Ellison agreed with Councilman Bratton.

Recess - 10 minutes

REGULAR SESSION:

Approval of Minutes - November 28, 1989 Meeting

Mayor Michalove said the minutes of the November 28, 1989 meeting would be considered on December 12, 1989.

I. PROCLAMATIONS:

A. Resolution No. 89-177 - Resolution in memory of Floyd D. Brock.

Mayor Michalove read a resolution expressing sorrow over the passing of Floyd D. Brock, a local attorney and former Chairman of the Asheville-Buncombe Water Authority.

Upon motion of Councilman Frank, seconded by Vice-Mayor Moore, Resolution No. 89-177 was unanimously adopted.

Resolution Book No. 12 Page No. 39

B. Proclamation - "Cities Fight Back Against Drugs Week" - December 3 - 9, 1989

Mayor Michalove read the proclamation and presented a copy to Pete Banyai, Director of the Buncombe County War on Drugs Commission.

Pete Banyai outlined the events that would be taking place during the week of December 3 - 9, 1989.

II. PUBLIC HEARINGS:

III. OLD BUSINESS:

A. Ordinance No. 1807 - Second reading of Ordinance amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville," as amended, Cleo and John Wilson and Loraine Hensley, property located on Springvale Avenue.

The City Manager said the Asheville Planning and Zoning Commission on November 1, 1989, reviewed and recommended approval of rezoning Lots 4, 101, 104, 114 and 125, Sheet 16, Ward 7, from R-3 Residential District to LI Light Industrial District. This ordinance was read on first reading on November 28, 1989.

Carol Alberice from the Planning Department reviewed the rezoning request and the surrounding zoning. She said this rezoning meets the goals and objectives of the 2010 plan.

On a roll call vote of 7-0, Ordinance No. 1807 passed on second reading.

IV. NEW BUSINESS:

A. Award of bids for automobiles and trucks for the City of Asheville.

The City Manager said this is the first purchase contract that was made jointly with the Buncombe County Purchasing Department. He said he felt considerable savings can be made with joint purchasing contracts. He said this action is for the award of 30 vehicles consisting of 12 police vehicles, 10 trucks (various sizes), 7 sedans and 1 van. He said the total award is in the amount of $396,495.00.

Bid summary is on file in the Office of the City Clerk.

Councilman Frank moved for the award of bids for automobiles and trucks for the City of Asheville as recommended by the Purchasing Department. This motion was seconded by Vice-Mayor Moore and carried unanimously.

B. Resolution No. 89-178 - Resolution authorizing the City Manager to execute a supplemental agreement with Poinsett Safety and Loss Prevention Services for continuation of worker's compensation loss prevention services.

The City Manager said this is a supplemental agreement to the agreement approved by City Council and executed on March 28, 1988 with Poinsett Safety and Loss Prevention Service.

Upon motion of Vice-Mayor Moore, seconded by Councilman Price, Resolution No. 89-178 was unanimously adopted.

Resolution Book No. 12 - Page 40

V. CONSENT

VI. OTHER BUSINESS:

Claims - Jackie West (Streets)

The City Manager presented a claim received from Jackie West.

Mayor Michalove referred the claim to the City Attorney for investigation and recommendation.

Light Up Your Holidays Special Cancellation Stamp Program

Mayor Michalove announced that the Board of Directors of Light Up Your Holidays and the United States Postal Service have instituted a Special Cancellation Stamp Program whereby all stamped mail processed through the Asheville General Mail Facility in the month of December will be cancelled with "Light Up Your Holidays Festival - Asheville, N. C."

Tony Gilbert, with the U. S. Postal Service, said this will allow 80,000 to 85,000 pieces of mail to be cancelled daily and would be going all over the world. He said he felt this would be a very good promotion for the City of Asheville.

Mayor Michalove thanked the Board of Directors of Light Up Your Holidays and the U. S. Postal Service staff for helping to initiate this program.

Councilman Bratton - Request for Pictures of Black Councilmembers to be placed in the hallways

Councilman Bratton said she would like to see pictures of all black Councilmembers placed in the hallways.

Ralph Bishop - Comments relative to Sign Ordinance

Ralph Bishop made comments in opposition to the adoption of the new Sign Ordinance. He said Council should reverse their decision adopting the sign ordinance.

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 5:40 p.m.

W. M. Michalove
MAYOR

William F. Walcott
CITY CLERK

Tuesday - December 12, 1989 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Eugene W. Ellison; and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Councilman Estes.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the minutes of the November 28, 1989 and December 5, 1989 meeting as submitted.

I. PROCLAMATIONS:

A. Resolution No. 89-179 - Resolution of appreciation for Thomas Johnson, recent retiree.

Harold Huff, Director of Water and Sewer Services introduced Thomas Johnson, recent retiree as a Meter Reader III in the Water Department. He said Mr. Johnson retired November 1, 1989 and has been employed with the City of Asheville since July, 1973.

Mayor Michalove read the resolution.

Upon motion of Councilman Frank, seconded by Vice-Mayor Moore, Resolution No. 89-179 was unanimously adopted.

Resolution Book No. 18 Page No. 41

II. PUBLIC HEARINGS:

A. Public hearing relative to Minority Business Goals.

Mayor Michalove opened the public hearing at 4:12 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

The City Attorney said the North Carolina legislature recently adopted legislation relating to state and local bid projects. He said the legislation requires the adoption of bid goals for participation by minority businesses for public contracts. He said the state has set their goal at ten percent (10%) and requires local governments to adopt bid goals. He said the legislation does not give guidance for setting the goals but only requires that the goals be reasonable and verifiable. He said bidders will be notified of steps to take to work toward obtaining these goals. He said the staff is awaiting guidelines from the Institute of Government before these goals are set. He suggested that the public hearing be continued until this information is received and until such time as the proposal can be reviewed by interested parties before Council takes action on the percentage goals.

Vice-Mayor Moore moved to continue the public hearing until January 16, 1990, without further advertisement. This motion was seconded by Councilman Price and carried unanimously.

III. OLD BUSINESS:

A. Ordinance No. 1807 - Third reading of Ordinance amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville," as amended, Cleo and John Wilson and Loraine Hensley, property located on Springvale Avenue.

The City Manager said the Asheville Planning and Zoning Commission on November 1, 1989, reviewed and recommended approval of rezoning Lots 4, 101, 104, 114 and 125, Sheet 16, Ward 7, from R-3 Residential District to LI Light Industrial District. This ordinance was read on first reading on November 28, 1989 and on second reading on December 5, 1989.

Mayor Michalove said this ordinance was previously read on first and second reading and would not be read in its entirety.

On a roll call vote of 7-0, Ordinance No. 1807 passed on third and final reading.

Ordinance Book No. 12 Page No. 50

IV. NEW BUSINESS:

A. Resolution No. 89-180 - Resolution authorizing execution of an interlocal agreement with the County of Buncombe and the Buncombe County Administrative Offices of the Courts to establish the Buncombe County Association of Criminal Justice Agencies.

The City Manager said the function of the association is to promote and fund the development and on-going maintenance of an automated Criminal Justice Information System. He said the cost to the City and County for furnishing this computer service is $70,000 per year. He said new software is being furnished by the City under a five (5) year financing plan. He said the contract specifies a three year period with the option to renew yearly.

After discussion, Councilman Ellison moved to amend the agreement to reflect a term of five years in order to run consecutively with the financing period. This motion was seconded by Councilman Price and carried unanimously.

Upon motion of Vice-Mayor Moore, seconded by Councilman Frank, Resolution No. 89-180, as amended was unanimously adopted.

Resolution Book No. 12 Page No. 42

V. CONSENT:

VI. OTHER BUSINESS:

A. Group Development Process

Gerald Green from the Planning Department explained the Group Development Process from the initial presentation to the approval stage. He also presented a flow chart explaining the various actions taken when a group development plan is being considered.

Councilman Ellison asked the City Attorney to look into the legality of including a liquidated damage clause in the approval of group developments in order to protect the City and neighboring residents from being damaged by a project being started and not completed in accordance with required contingencies.

B. Group Development Actions by the Planning and Zoning Commission

Gerald Green, from the Planning Department, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. The action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. The following action was taken by the Planning and Zoning Commission at their meeting on December 6, 1989.

Asheville Eye Clinic - Off Tunnel Road

The Asheville Planning and Zoning Commission on December 6, 1989 reviewed and approved the site plan of the Asheville Eye Clinic - Off Tunnel Road subject to the following contingencies: 1) Approval of an erosion control plan by the Planning Department prior to soil disturbance; 2) Approval of Driveway Permit; and 3) Compliance with requirements of Water, Wastewater, and Engineering Department.

He said a petition was received from adjacent property owners supporting the project.

Council accepted the recommendation of the Planning and Zoning Commission for the site plan of the Asheville Eye Clinic - Off Tunnel Road, thereby indicating approval.

Hawthorne Villages - 198 Old Haw Creek Road

The Asheville Planning and Zoning Commission on December 6, 1989 reviewed and approved the site plan of the Hawthorne Villages - 198 Old Haw Creek Road subject to the following contingencies: 1) Approval of an erosion control plan by the Planning Department prior to soil disturbance; and 2) Allowing roll type gutter as approved by Public Works.

He said Rose Rose of the Homeowners' Association indicated that they support the project.

Council accepted the recommendation of the Planning and Zoning Commission for the site plan of the Hawthorne Villages - 198 Old Haw Creek Road, thereby indicating approval.

C. **Eugene W. Ellison - Resignation from Alcoholic Beverage Control Board**

Mayor Michalove read a letter from Eugene W. Ellison, Councilman, resigning from the Alcoholic Beverage Control Board effective December 12, 1989.

Councilman Price moved to accept Mr. Ellison's resignation from the Alcoholic Beverage Control Board. This motion was seconded by Vice-Mayor Moore and carried unanimously.

D. **Resolution No. 89-181 - Resolution reaffirming the appointment of Russell M. Martin as a member to the City of Asheville Board of Alcoholic Control**

Mayor Michalove read a resolution reaffirming the appointment of Russell M. Martin as a member of the City of Asheville Board of Alcoholic Control to serve a three year term, term expiring November 13, 1992, or until his successor is duly appointed and qualified.

Upon motion of Vice-Mayor Moore, seconded by Councilman Price, Resolution No. 89-181 was unanimously adopted.

Resolution Book No. 12 Page No. 43

E. **Resolution No. 89-182 - Resolution appointing member to the City of Asheville Board of Alcoholic Control (Osborne M. Hart)**

Mayor Michalove read a resolution appointing Osborne M. Hart to serve the unexpired term of Eugene W. Ellison, term expiring November 13, 1990, or until his successor is duly appointed and qualified.

Upon motion of Councilman Bratton, seconded by Councilman Price, Resolution No. 89-182 was unanimously adopted.

Resolution Book No. 12 Page No. 44

F. **Resolution No. 89-183 - Resolution appointing Chairman to the City of Asheville Board of Alcoholic Control (Helen Mitchell)**

Mayor Michalove read a resolution appointing Helen Mitchell as Chairman of the City of Asheville Board of Alcoholic Control to serve until her term expires, November 13, 1991, or until her successor is duly appointed and qualified.

Upon motion of Councilman Bratton, seconded by Councilman Frank, Resolution No. 89-183 was unanimously adopted.

Resolution Book No. 12 Page No. 45

G. **Claims - Doris Robinson (Streets) - James Tucker (Sewer) - Sophie Dixon (Water) - John Michaels (Water) - Dana Edwards (Water)**

The City Manager presented claims received from Doris Robinson, James Tucker, Sophie Dixon, John Michaels, and Dana Edwards.

Mayor Michalove referred the claims to the City Attorney for investigation and recommendation.

VII. ADJOURNMENT

Mayor Michalove adjourned the meeting at 5:15 p.m.

H. M. Nicholson
MAYOR

William F. Wolcott
CITY CLERK

Tuesday - December 19, 1989 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Councilman Ellison.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the minutes of December 12, 1989 meeting as submitted.

I. PROCLAMATIONS:

A. Resolution No. 89-184 - Resolution of appreciation for Joe Merrill, recent retiree.

Chief John Rukavina said Joe Merrill has been employed with the City of Asheville since August, 1960. He is an Executive Assistant in the Fire Department. He said he will be retiring on January 1, 1990.

Mayor Michalove read the resolution.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 89-184 was unanimously adopted.

Mayor Michalove presented the resolution to Joe Merrill.

Resolution Book 18 - Page 46

B. Proclamation - 1989 North Pole Substation
Ho Ho Hotline - Hillhaven Resthome

Mayor Michalove read the proclamation and presented it to Natalie Frost, Director of Activity Therapy, Hillhaven Resthome.

II. PUBLIC HEARINGS:

III. OLD BUSINESS:

IV. NEW BUSINESS:

A. Resolution No. 89-185 - Resolution authorizing execution of an agreement with the U. S. Department of Housing and Urban Development for a Section 312 Rehabilitation Loan Program.

Larry Holt, Executive Director of the Housing Authority, said the Agreement authorizes the City to process and submit to HUD applications by private property owners for rehabilitation loans under Section 312 of the Housing Act of 1964, as amended. The Agreement also delineates the legal relationship between HUD and the City with respect to making such loans. The City will contract with the Housing Authority for administration of this project.

Upon motion of Councilman Price, seconded by Councilman Ellison, Resolution No. 89-185 was unanimously adopted.

Resolution Book 18 - Page 47

B. Motion amending the Fees and Charges Manual relative to taxi cab rates.

The City Manager said members of Council discussed this matter in detail during a Pre-Council worksession last week and this action will increase the taxi cab rates to $1.15 for pickup and $.10 for each 1/12 mile.

Joe Penland spoke in favor of the increase; however, he stated that he felt the increase should be more and the amendments requested by the taxicab operators should be addressed.

Councilman Ellison requested that he be excused from participation and vote on the taxicab rate increase because he represents several of the taxicab operators.

Councilman Price moved that Councilman Ellison be excused from vote and participation on the taxicab rate increase matter. This motion was seconded by Councilman Bratton and carried unanimously.

Councilman Frank moved that the fees and charges manual be amended to reflect a taxicab rate increase to $1.15 for pickup and $.10 for each 1/12 mile. This motion was seconded by Councilman Estes and carried unanimously.

C. Resolution No. 89 - 186 - Resolution authorizing the City Manager to execute a contract for a five-year Transit Services Plan between the City of Asheville and Weslin Consulting Services, Inc.

The City Manager said the FY 1990 Planning Work Program for the Asheville Urban Transportation Area specifies that a Five-Year Services Plan for the Asheville Transit System be conducted to evaluate and make recommendations for the improvement of the Asheville Transit System. He said a consultant, Weslin Consulting Services, Inc. of Bellevue, Washington has been selected by the Asheville Transit Authority to conduct the evaluation of the present route structure and management company, present options for the relocation of the downtown bus transfer system and prepare a long range improvement plan for the entire system.

Upon motion of Councilman Price, seconded by Councilman Ellison, Resolution No. 89-186 was unanimously adopted.

Resolution Book 18 - Page 48

D. Recommendation from Asheville Transit Authority that the Skyland Route #10 be discontinued on December 30, 1989.

The City Manager said the Asheville Transit Authority, after a six month trial transit service, recommends to the Asheville City Council that the Skyland Bus Route be discontinued on December 31, 1989. This is due to very low ridership and revenue figures which were monitored monthly and showed very little sign of increase throughout the trial period.

Mayor Michalove presented a petition with approximately 30 signatures requesting that the Skyland Route #10 be continued.

After a brief discussion, Councilman Frank moved to accept the recommendation of the Asheville Transit Authority to discontinue Skyland Bus Route #10. This motion was seconded by Councilman Bratton and carried unanimously.

V. CONSENT:

A. Scheduling public hearing relative to rezoning property on I-240 for Wyatt Development for February 6, 1990.

SUMMARY: The Asheville Planning and Zoning Commission on November 1, 1989, voted to deny the rezoning petition of Lot 1, Sheet 16, Lower Hominy; Lot 6-1/2, Sheet 17, Lower Hominy; and Portion of Lot 1, Sheet 16, Ward 5, from R-3 Residential District to CH Commercial Highway District. They voted to continue this petition for reconsideration to the December 6 meeting. There was no motion to reconsider, therefore, the denial of November 1 stood.

B. Scheduling public hearing relative to a wording amendment to the Zoning Ordinance regarding mini-storage warehouses for January 16, 1990.

SUMMARY: The Asheville Planning and Zoning Commission met on December 6, 1989 and voted to recommend to City Council that Article 5 Chapter 30 of the Code of Ordinances be amended.

C. Scheduling public hearing relative to rezoning property on Rock Hill Road for January 9, 1990.

SUMMARY: The Asheville Planning and Zoning Commission on December 6, 1989, reviewed and recommended approval of zoning Lot 14, Sheet 32 & 44, Ward 13, from LI Light Industrial District to R-3 Residential District.

D. Scheduling public hearing relative to designating the E. W. Grove Office and Park Benches as a local historic property for January 9, 1990.

SUMMARY: The Grove Office Building is significant to the architecture and history of the City of Asheville because of its association with Asheville's remarkable 1900-1929 real estate boom. The building served as the development office of one of Asheville's key community leaders and represents the rustic English cottage architectural style of Asheville's well known architect, Richard Sharp Smith.

E. Scheduling public hearing relative to designating the Public Service Building as a local historic property for January 9, 1990.

SUMMARY: Constructed in 1929, the Public Service Building is a fine example of the commercial "Skyscraper" architecture popular across the

nation from 1890 to 1930. Reflecting Romanesque features with elements popularized by architect Louis Sullivan, the structure is richly ornamented with polychrome terra cotta, tile and structural detail.

F. Resolution No. 89-187 - Resolution of intent to close a portion of Rosewood Avenue and calling a public hearing on the question for January 23, 1990.

SUMMARY: The petition requests that an unopened portion of Rosewood Avenue be closed. This unopened remnant of Rosewood Avenue occurred when adjoining property was resubdivided and the developers of the subdivision redesigned the street system. The closing has been reviewed by the Technical Review Committee and found to have no effects upon water or sewer utilities or any other uses advantageous to the City.

Resolution Book 18 - Page 49 - 50

G. Resolution No. 89 - 188 - Resolution calling for a public hearing for the adoption of an ordinance directing the Director of Building Inspections to demolish the dwellings located at 36, 38 and 40 Cumberland Avenue for January 16, 1990.

SUMMARY: This resolution will establish a date for a public hearing to adopt an ordinance directing the Director of Building Inspections to demolish the dwellings located at 36, 38, and 40 Cumberland Avenue, Asheville, North Carolina.

Resolution Book 18 - Page 51 - 52

H. Resolution No. 89 - 189 - Resolution calling for a public hearing for the adoption of an ordinance directing the Director of Inspections to demolish the dwelling located at 224 Flint Street for January 16, 1990.

SUMMARY: This resolution will establish a date for a public hearing to adopt an ordinance directing the Director of Building Inspections to demolish the dwellings located at 224 Flint Street, Asheville, North Carolina.

Resolution Book 18 - Page 53 - 54

I. Resolution No. 89 - 190 - Resolution calling for a public hearing for the adoption of an ordinance directing the Director of Inspections to demolish the dwelling located at 10 Birch Street for January 9, 1990.

SUMMARY: This resolution will authorize a public hearing for City Council to adopt an ordinance to demolish 10 Birch Street.

Resolution Book 18 - Page 55 - 56

Upon motion of Councilman Price, seconded by Councilman Frank, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

CLAIMS - EARL TARLTON (WATER) - BOB GRIFFIN (WATER) - BRIAN HOLT (WATER) - RICKY HUGHES (WATER)

The City Manager presented claim received from Earl Tarlton, Bob Griffin, Brian Holt and Ricky Hughes.

Mayor Michalove presented the claims to the City Attorney for investigation and recommendation.

LIFE ADVOCATES - PROPOSED CHANGES TO ASHEVILLE PICKETING ORDINANCE

A representative of Life Advocates spoke to members of Council requesting the following changes to the Picketing Ordinance:

1) Eliminate the $10.00 permit fee.
2) Exchange permit requirement for 24 hour advance notification.
3) Allow sign size to include 28" x 22". (This is a regular poster board size)
4) Permit lath to be used on signs as handles. (1/4" thick, not longer than 3' below bottom of poster, not pointed on either end, not sticking out on top.)
5) Remove restrictions on cameras. (They are not weapons)
6) Relax the 15 foot spacing rule and the continuous motion provision. (Our concern is that a distinction be made between picketers, who carry signs, and sidewalk counselors, who do not.)
7) Fairly enforce the equal time rule.

Mayor Michalove said Council members would look into these recommendations.

VII. ADJOURNMENT

Vice-Mayor Michalove adjourned the meeting at 5:20 p.m.

V. M. Michalove
MAYOR

William F. Wolcott
CITY CLERK

Tuesday - January 9, 1990 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, and Eugene W. Ellison; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman William W. Estes

INVOCATION

The invocation was given by Councilman Price.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the minutes of the December 19, 1989 meeting.

STUDENT REPRESENTATIVES FOR MONTH OF JANUARY, 1990

Charles Penny, Assistant City Manager, introduced Nina Kim and Diana Brock, student representatives from Asheville High School, who would be attending the Council meetings during the month of January, 1990.

I. PROCLAMATIONS:

A. Resolution NO. 90-1 - Resolution recognizing recent retiree, Charles Parker.

Mayor Michalove read a resolution recognizing recent retiree, Charles Parker, Firefighter III, who retired December 1, 1989.

Upon motion of Councilman Bratton, seconded by Councilman Price, Resolution No. 90-1 was unanimously adopted.

Resolution Book 18 Page 57

The framed resolution will be presented to Mr. Charles Parker.

B. Proclamation - "McGruff the Crime Dog" - Asheville's Number One Crime Dog

Mayor Michalove said this proclamation is to bring public attention to the Police Department's efforts in Crime Prevention and to award Dog Tag No. 1 to McGruff, thus announcing the new 1990 dog tags.

Mayor Michalove said the proclamation would be presented to Captain R. L. Carver at the Asheville Police Department.

C. **Proclamation - "Opticians Month" - January, 1990**

Mayor Michalove read the proclamation and presented it to Jim McCall, President of the Western North Carolina Opticians Society.

D. **Proclamation - "Dr. Martin Luther King, Jr., Week" - January 12 - 15, 1990**

Mayor Michalove said this proclamation recognizes the special events planned for the celebration of Martin Luther King, Jr. Week and Martin Luther King, Jr. Holiday, the largest of which is the annual Martin Luther King, Jr. Prayer Breakfast. This is sponsored by the Asheville Parks and Recreation Department in conjunction with many other local agencies.

Mayor Michalove presented the proclamation to Oralene Simmons who outlined the events taking placed during Dr. Martin Luther King, Jr., Week.

II. PUBLIC HEARINGS:

A. **Public hearing relative to designating property known as the Public Service Building at 89-93 Patton Avenue as a local historic property.**

Ordinance No. 1809 - Ordinance designating property known as the Public Service Building at 89-93 Patton Avenue as a local historic property.

Mayor Michalove said the Historic Resources Commission at the request of Southeastern Historic Properties, owner of the structure, has studied the Survey and Research Report as submitted by Southeastern Historic Properties' consultant and determined the building to be eligible for designation as a local historic property. The North Carolina Department of Cultural Resources concurs with the Historic Resources Commission's nomination.

Mayor Michalove opened the public hearing at 4:17 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Kent Newell, Director of Historic Resources, said the Public Service Building is located at 89-93 Patton Avenue and was constructed in 1929 by the architectural firm of Beecham and LaGrande to accommodate the needs of the Carolina Power and Light Company. This "Skyscraper" characterized one of the most popular American commercial architectural styles in the first quarter of the twentieth century. He said it is constructed on steel frame, red brick and glazed polychromatic terra cotta tiles were used to create a Neo-Spanish Romanesque office building. Eight stories in height, the structure contains low relief sculptural detail that are accented by colored detailed tiles. This architectural style was developed primarily by Chicago architect, Louis Sullivan. The Public Service Building is one of the last commercial buildings to be constructed during Asheville's pre-depression boom period.

Mr. Newell said the Historic Resources Commission at the request of Southeastern Historic Properties, owner of the structure, has studied the Survey and Research Report as submitted by Southeastern Historic Properties' consultant and determined the building to be eligible for designation as a local historic property. The North Carolina Department of Cultural Resources concurs with the Commission's nomination.

Mr. Newell said no opposition has been received relative to this designation. He requested that Council hold three readings on the ordinance today in order to speed up the process for the owners to receive a local tax deferment of fifty percent (50%).

Upon inquiry of Ralph Bishop, Mr. Newell said all properties requested to be designated as historic are first studied by the Historic Resources Commission.

Mayor Michalove closed the public hearing at 4:35 p.m.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Price moved for the adoption of Ordinance No. 1809. This motion was seconded by Councilman Frank.

On a roll call vote of 6-0, Ordinance No. 1809 passed on first reading.

Councilman Frank moved to suspend the rules and proceed to the second reading of Ordinance No. 1809. This motion was seconded by Vice-Mayor Moore and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1809 passed on second reading.

Mayor Michalove said the third reading of the ordinance would be scheduled for January 16, 1990.

NOTE: **Public hearing - designation of E. W. Grove Property as Historic**

A public hearing was previously scheduled to consider an ordinance designating the E. W. Grove Property as historic; however, it was determined that additional information relative to this designation was needed and this public hearing will be held at a later date.

B. **Public hearing relative to adoption of an ordinance directing the Director of Building Inspections to demolish the dwelling located at 10 Birch Street.**

Mayor Michalove said this ordinance will authorize the Director of Building Inspections to demolish 10 Birch Street, Asheville, North Carolina.

Mayor Michalove opened the public hearing at 4:37 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

John Rukavina, Fire Chief, gave a status report on the condition of the dwelling located at 10 Birch Street. He said the dwelling is in very bad condition and all legal actions necessary for the demolition has been taken. He said the owner can not repair the dwelling and indicated that they are willing for the City to demolish the dwelling.

He said since the building is in a historic district he had been in contact with the Historic Resources Commission and they have indicated a desire to remove certain components of the dwelling prior to demolition.

John Walsh, 26 Ivey Street, said there is a dwelling on Chatam Avenue that also needs demolishing.

Minnie Jones said Council should receive written verification from the owner that she is willing to have the dwelling demolished or at the least that she has been notified of this public hearing.

After discussion, Councilman Ellison moved to continue the public hearing without further advertisement until January 16, 1990; further that the owner of the dwelling be served with a registered letter, return receipt requested, stating that this matter is being considered by Council; and that the owner be personally contacted if possible and that the property be posted with a notice that this matter is being considered by Council. This motion was seconded by Councilman Price and carried unanimously.

C. Public hearing relative to rezoning property located off Rock Hill Road, petition of Charles Harrell, Harrell-Butler.

Ordinance No. 1810 - Ordinance amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville," as amended, petition of Charles Harrell, Harrell-Butler, property located off Rock Hill Road

Mayor Michalove said the Asheville Planning and Zoning Commission on December 6, 1989, reviewed and recommended approval of zoning Lot 14, Sheet 32 & 44, Ward 13, from LI Light Industrial District to R-3 Residential District.

Mayor Michalove opened the public hearing at 5:04 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Carol Alberice, from the Planning Department, reviewed the rezoning request. She said the property contains 49.92 acres and is located off Rock Hill Road. She said the property is 60% pasture land and 40% wooded. She reviewed the surrounding zoning as being R-1 and R-2 Residential Districts. She said the rezoning would be in accordance with the Comprehensive Plan and is compatible with other surrounding properties.

Mayor Michalove closed the public hearing at 5:12 p.m.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

For the record, Mayor Michalove said he had consulted the City Attorney and it was determined that he would not have a conflict of interest in

voting on this issue due to the fact that his son is employed by the petitioner.

Councilman Frank moved for the adoption of Ordinance No. 1810. This motion was seconded by Councilman Bratton.

On a roll call vote of 6-0, Ordinance No. 1810 passed on first reading.

The petitioner requested that the ordinance be read on three readings at todays meeting due to a restricted time schedule.

Councilman Ellison moved to suspend the rules and proceed to the second reading of Ordinance No. 1810. This motion was seconded by Councilman Moore and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1810 passed on second reading.

Mayor Michalove said the third reading of the ordinance would be held on January 16, 1990.

III. OLD BUSINESS:

IV. NEW BUSINESS:

A. Ordinance amending Chapter 12, Fire Prevention and Protection of the Code of Ordinances of the City of Asheville.

John Rukavina, Fire Chief, said the proposed ordinance will delete Section 3-1.1.2 of Pamphlet No. 1, Fire Prevention Code, 1982 Edition. This ordinance will strengthen the requirement to report fires and add this requirement to report fire alarms.

The Fire Chief said the present fire code, N.F.P.A. 1, Section 3-1.1.2 mandates the reporting of any unwanted fire. It does not clearly define "Unwanted Fire". Neither does the present code address the reporting of fire alarms where the presence of scope of a fire may take several minutes to determine.

He said the District Chiefs have reported several instances where internal fire alarms have been activated and notification of the fire department has been delayed while the owner/occupant attempts to determine the cause of the alarm. In some cases these alarms, and even some relatively small fires are never reported. Occupancies such as hotels/motels, factories

and high-rise mixed occupancy of office/restrained institutional are included in those failing to report. These circumstances are often contributing factors in serious fires. The danger to lives and buildings is significantly increased when delay of notification occurs.

He said the intent is to reduce the notification time through education first and enforcement when education fails. Signs stating that it is unlawful to fail to report fires or activation of fire alarm systems when the alarm cannot quickly be determined to be false, will be required in the affected occupancies. It is imperative that this action be taken before Asheville joins other jurisdictions that have experienced high life and property loss due to delay in notification.

Upon inquiry of Councilman Ellison, the City Attorney said he felt the term "immediately" should be retained in the ordinance.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Vice-Mayor Moore moved for the adoption of Ordinance No. 1811. This motion was seconded by Councilman Frank.

On a roll call vote of 6-0, Ordinance No. 1811 passed on first reading.

Councilman Ellison moved to suspend the rules and proceed to the second reading of Ordinance No. 1811. This motion was seconded by Vice-Mayor Moore and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1811 passed on second reading.

Councilman Price moved to suspend the rules and proceed to the third reading of Ordinance No. 1811. This motion was seconded by Councilman Frank and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1811 passed on third reading.

Ordinance Book No. 12 - Page 56 - 57

B. **Resolution No. 90-2 - Resolution awarding Contract No. 4 to Huntley Construction Company and authorizing the City Manager to execute on behalf of the City of Asheville the contract and any change orders within the**

budgeted amount with Huntley Construction Company of Asheville, North Carolina for the project known as Street and Sidewalk Improvements Contract No. 4.

The City Manager explained in detail that this contract is for special projects in the Street and Sidewalk Improvement Program. He said Huntley Construction Company was lowest responsible bidder on Street and Sidewalk improvements Contract No. 4. The bids have been tabulated and reviewed by McGill Associates, P. A. Consulting Engineers and found to be in order. The recommendation of the Engineers and Public Works Department is that the contract be awarded to Huntley Construction Company. The bid was 7% below the Engineers estimated project cost.

Upon motion of Vice-Mayor Moore, seconded by Councilman Price, Resolution No. 90-2 was unanimously adopted.

Resolution Book No. 18 - Page 58

C. **Bids - 5/8 inch and 1 inch water meters for Central Stores Inventory.**

The City Manager said this action is for the award of contract to purchase 7500 each 5/8 inch water meters at $20.75 each with trade in allowance for 6000 each old 5/8 inch water meters at ($4.00) each and purchase 200 each 1 inch water meters at $53.00 each with trade in allowance for 100 each old 1 inch water meters at ($7.00) each to low bidder, Schlumberger Industries, Inc., Neptune Water Division, Tallassee, Alabama, in the net amount of $141,525.

Vice-Mayor Moore moved to accept the recommendation to award the bid to Schlumberger Industries, Inc. in the amount of $141,525. This motion was seconded by Councilman Frank and carried unanimously.

D. **Resolution No. 90-3 - Resolution authorizing the City Manager to execute a right-of-way encroachment agreement with Wachovia Bank and Trust Company, N.A., located at No. 1 Haywood Street.**

The City Manager said Wachovia Bank and Trust Company has installed new doors leading into the underground parking at No. 1 Haywood Street. The bank wishes to place a card access reader to open the doors for employees entering the underground parking off the South side of College Street. The card access reader needs to be in the sidewalk of College Street and within the right-of-way of the street. This agreement will require Wachovia to be responsible for placing, removing and maintaining the card reader.

Upon motion of Councilman Ellison, seconded by Vice-Mayor Moore, Resolution No. 90-3 was unanimously adopted.

Resolution Book 18 - Page 59

V. CONSENT:

A. **Resolution No. 90-4 - Resolution appointing member to the Asheville-Buncombe Water Authority.**

SUMMARY: This resolution will reappoint Norma Price as a member of the Asheville-Buncombe Water Authority.

Resolution Book 18 - Page 60

B. **Resolution No. 90-5 - Resolution appointing member to the Asheville-Buncombe County Community Relations Council.**

SUMMARY: This resolution will reappoint Edward Schell as a member of the Asheville-Buncombe County Community Relations Council.

Resolution Book 18 - Page 61

C. **Resolution No. 90-6 - Resolution appointing member to the Asheville Fair Housing Commission.**

SUMMARY: This resolution will reappoint Edward Schell as a member of the Asheville Fair Housing Commission

Resolution Book 18 - Page 62

D. **Resolution No. 90-7 - Resolution appointing member to the Asheville Transit Authority**

SUMMARY: This resolution will reappoint Wanda Winslow as a member of the Asheville Transit Authority

Resolution Book 18 - Page 63

E. **Resolution No. 90-8 - Resolution appointing members to the Board of Adjustment.**

SUMMARY: This resolution will appoint John A. Dusenbury as a regular member of the Board of Adjustment and reappoint Barney P. Woodard and Jeff Dave as alternate members of the Board of Adjustment.

Resolution Book 18 - Page 64

F. **Resolution No. 90-9 - Resolution appointing member to the Firemen's Relief Fund.**

SUMMARY: This resolution will reappoint Donald O. Fowler as a member of the Firemen's Relief Fund

Resolution Book 18 - Page 65

G. **Resolution No. 90-10 - Resolution appointing member to the Metropolitan Sewerage District Board.**

SUMMARY: This resolution will reappoint Frank Smith as a member of the Metropolitan Sewerage District Board.

Resolution Book 18 - Page 66

Upon motion of Councilman Ellison, seconded by Vice-Mayor Moore, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

B. Group Development Actions by the Planning and Zoning Commission

Gerald Green, from the Planning Department, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. The action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. The following action was taken by the Planning and Zoning Commission at their meeting on January 3, 1990.

Redwood Forest - Garden Apartments

The Asheville Planning and Zoning Commission on January 3, 1990 reviewed and approved the site plan of the Redwood Forest - Garden Apartments subject to the following contingencies: 1) Approval of an erosion control plan by the Planning Department prior to soil disturbance; 2) Approval of Driveway Permit; and 3) Provide the required buffer of evergreen trees as called for by Section 30-3-14 of the Asheville Zoning Ordinance; and 4) The connections from the new fire hydrant to the existing water main be larger than 6" diameter.

Council accepted the recommendation of the Planning and Zoning Commission for the site plan of the Redwood Forest - Garden Apartments, thereby indicating approval.

C & D Mini-Warehouses - Deaverview Road

The Asheville Planning and Zoning Commission on January 3, 1990 reviewed and approved the site plan of the C & D Mini-Warehouses - Deaverview Road subject to the following contingencies: 1) Approval of an erosion control plan by the Planning Department prior to soil disturbance; and 2) Provide the development with adequate fire protection, as determined by the Asheville Fire Department, prior to construction; and 3) Present final drawings to the Planning Department for review prior to issuance of building permits.

The City Manager said the developer has questioned the contingency to provide adequate fire protection and requested that the matter be considered by Council next week.

After discussion, Councilman Ellison moved that Council continue the discussion relative to C & D Mini-Warehouses on January 16, 1990. This motion was seconded by Vice-Mayor Moore and carried on a voice vote of 5-1, with Councilman Price voting "no."

CLAIMS - DAVID A DUNCAN (WATER) - MARION OCHSENREITER (WATER) - STEVE KAYNE (WATER) - VICKI HALL MULL (WATER) - DAN PATTERSON (WATER) - RON SIMPSON (WATER) - BLANCHE KELLER (WATER) - WILLIAM CLINKSCALES (POLICE) - GEORGE WILLIAMS SR. (WATER) - GEORGE WILLIAMS JR. (WATER)

The City Manager presented claims received from David A. Duncan, Marion Ochsenreiter, Steve Kayne, Vicki Hall Mull, Dan Patterson, Ron Simpson, Blanche Keller, William Clinkscales, George Williams, Sr., and George Williams, Jr.

Mayor Michalove referred the claims to the City Attorney for investigation and recommendation.

LAWSUIT - SHARON JEAN BISHOP AND PHILLIP W. BISHOP V. CITY (PERSONAL INJURY)

The City Manager said the City was served with a lawsuit on December 27, 1989 involving Sharon Jean Bishop and Phillip W. Bishop v. City relative to personal injury and property damage from hitting raised water meter.

COUNCILMAN ELLISON - SPRINKLER SYSTEMS IN COMMERCIAL BUILDINGS

Councilman Ellison requested that Council discuss the feasibility of seeking an amendment to the North Carolina State Building Code to require sprinkler systems in all commercial buildings.

MAYOR MICHALOVE - COMMENDATION TO STAFF DURING EXTREME COLD WEATHER

Mayor Michalove commended the Assistant City Manager and the City staff for outstanding performance during the recent extreme cold weather.

CITY MANAGER - B.E.S.T. PROGRAM

The City Manager explained to members of Council the City's new B.E.S.T. Program. He said employees are nominated for B.E.S.T. Awards when they are noted for "extraordinary" performance. He said the employees are presented with balloons, a goody bag, and an invitation to a B.E.S.T. Awards luncheon.

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 6:05 p.m.

H. McMichalove
MAYOR

Willian F. Holcombe
CITY CLERK

Tuesday - January 16, 1990 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Mayor Michalove.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the minutes of the January 9, 1990 meeting as submitted.

I. PROCLAMATIONS:

II. PUBLIC HEARINGS:

A. Public hearing relative to amending Chapter 30 of the Code of Ordinance of the City of Asheville to include self service storage facilities as permitted uses and conditional uses.

Ordinance No. 1812 - Ordinance amending Chapter 30 of the Code of Ordinances of the City of Asheville to include self service storage facilities as permitted uses and conditional uses

Mayor Michalove said the Asheville Planning and Zoning Commission met on December 6, 1989 and voted to recommend to City Council that Article 5 Chapter 30 of the Code of Ordinances be amended to include self-service storage facilities as a permitted use in the CS, LI, and HI districts and as a conditional use in the CH district.

Mayor Michalove opened the public hearing at 4:17 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Gerald Greene, from the Planning Department, reviewed the proposed ordinance which defines self-service storage facilities, identifies districts in which they are permitted, and establishes standards for their development. He said self-service storage facilities (mini-warehouses) are not currently addressed in the ordinance and this use has been treated as a warehouse. The special characteristics of this use demands special attention in the ordinance.

David Matney, Attorney representing George Morosani, said he felt the proposed ordinance is a compromise that the self-service storage warehouse businesses could operate under. He requested that the provision for a landscaped strip of twenty (20) feet in width to be provided along the front property line be amended to state that this provision shall not be applicable if the facility has a permanent improvement structure between the highway and the facility which would obstruct the view of the warehouse from the highway.

After a brief discussion, Mayor Michalove closed the public hearing at 4:50 p.m.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Price moved for the adoption of the ordinance amending the definition of self-service storage facility to reflect that the facility shall not exceed 800 square feet per unit and further that a landscaped strip of twenty (20) feet in width shall be provided along the front property line unless there is a permanent improvement between the highway and the self-service storage facility which would obstruct the view of the self-service storage facility in which case the front property line shall have a landscaped strip of ten (10) feet in width. This motion was seconded by Councilman Ellison.

On a roll call vote of 7-0, Ordinance No. 1812 passed on first reading.

B. Public hearing relative to adoption of an ordinance directing the Director of Building Inspections to demolish the dwelling located at 224 Flint Street.

SUMMARY: This ordinance will direct the Director of Building Inspections to demolish the structure located at 224 Flint Street, Asheville, North Carolina, and in so doing, comply with the provisions of the City of Asheville Housing Code.

Upon motion of Vice-Mayor Moore, seconded by Councilman Price, the public hearing was continued until January 23, 1990, without further advertisement, pending verification that the property owners have been notified of the public hearing.

C. **Public hearing relative to adoption of an ordinance directing the Director of Building Inspections to demolish the dwellings located at 36, 38, and 40 Cumberland Avenue.**

SUMMARY: This ordinance will direct the Director of Building Inspections to demolish the dwellings located at 36, 38, and 40 Cumberland Avenue, Asheville, North Carolina.

Upon motion of Vice-Mayor Moore, seconded by Councilman Price, the public hearing was continued until January 23, 1990, without further advertisement, pending verification that the property owners have been notified of the public hearing.

D. **Continuation of a public hearing relative to Minority Business Goals**

Resolution No. 90 -11 - Resolution establishing a verifiable percentage goal for participation by minority business in the awarding of building construction contract awarded pursuant to N.C. Gen. Stat. Sec. 143-128

Mayor Michalove said this public hearing was continued from the December 12, 1989 meeting and is scheduled to receive public comments relative to Minority Business Goals.

Mayor Michalove reopened the public hearing at 4:52 p.m.

The City Attorney reviewed the proposed resolution establishing a verifiable percentage goal for participation by minority business in the awarding of building construction contracts awarded pursuant to N.C. Gen. Stat. Sec. 143-128.

He said the North Carolina legislature recently adopted legislation relating to state and local bid projects. He said the legislation requires the adoption of bid goals for participation by minority businesses for public building construction contracts. He said the state has set their goal at ten percent (10%) and requires local governments to adopt bid goals. He said the legislation does not give guidance for setting the goals but only requires that the goals be verifiable. He said bidders will be notified of steps to take to work toward attaining these goals.

He said the M/WBE Committee will be presenting members of Council with a Procurement Plan in the near future. He said this committee has also been working toward setting percentage goals.

The City Attorney agreed with Councilman Ellison that the percentage goals being established were not that important since Council must accept the lowest responsible bid.

Councilman Ellison said he felt the process for notification to minorities and women is the most important aspect.

Upon inquiry of Council, Marvin Vierra, Director of Community Development, said the M/WBE Committee arrived at the suggested five (5%) percent goal through a discussion process. He said they had no scientific formula for arriving at that figure. He said the percentage goals would be monitored for several years.

Carroll Hughes, architect, asked what criteria would be used in meeting these goals and what should contractors be told when submitting bids in order the meet these goals.

The City Attorney said this action would not affect professional service contracts. He said contractors would be notified of the requirements of the resolution.

The City Attorney said this recent legislation deals only with building construction contracts.

Councilman Bratton said she has been working with the M/WBE Committee and is a member of the State Minority Business Committee and they would also be giving guidance on this issue.

Mayor Michalove closed the public hearing at 5:28 p.m.

Vice-Mayor Moore moved for the adoption of Resolution No. 90-11 allowing for a verifiable goal of five (5%) percent. This motion was seconded by Councilman Frank.

Councilman Ellison made a substitute motion for the adoption of Resolution No. 90-11 allowing for a verifiable goal of eight (8%) percent to be more in line with the goals set by the state. This motion was seconded by Vice-Mayor Moore.

After discussion, Vice-Mayor Moore withdrew his motion and his second to Councilman Ellison's motion.

Councilman Ellison then moved for the adoption of Resolution No. 90-11 allowing for a verifiable goal of ten (10%) percent. This motion was seconded by Vice-Mayor Moore and carried unanimously.

Resolution Book No. 18 - Page 67 - 70

E. **Continuation of a public hearing relative to the adoption of an ordinance directing the Director of Building Inspections to demolish the dwelling located at 10 Birch Street.**

SUMMARY: This ordinance will authorize the Director of Building Inspections to demolish 10 Birch Street, Asheville, North Carolina.

Upon motion of Vice-Mayor Moore, seconded by Councilman Price, the public hearing was continued until January 23, 1990, without further advertisement, pending verification that the property owners have been notified of the public hearing.

III. OLD BUSINESS:

A. **Ordinance No. 1809 - Third reading of an ordinance relative to designating property known as the Public Service Building at 89-93 Patton Avenue as a local historic property.**

Mayor Michalove said the Historic Resources Commission at the request of Southeastern Historic Properties, owner of the structure, has studied the Survey and Research Report as submitted by Southeastern Historic Properties' consultant and determined the building to be eligible for designation as a local historic property. The North Carolina Department of Cultural Resources concurs with the Historic Resources Commission's nomination.

On a roll call vote of 7-0, Ordinance No. 1809 passed on third and final reading.

Ordinance Book 12 - Page 52-54

B. **Ordinance No. 1810 - Third reading of an ordinance relative to rezoning property located off Rock Hill Road, petition of Charles Harrell, Harrell-Butler.**

Mayor Michalove said the Asheville Planning and Zoning Commission on December 6, 1989, reviewed and recommended approval of zoning Lot 14, Sheet 32 & 44, Ward 13, from LI Light Industrial District to R-3 Residential District.

On a roll call vote of 7-0, Ordinance No. 1810 passed on third and final reading.

Ordinance Book 12 - Page 55

C. **Continuation of discussion relative to the Group Development for C & D Mini-Warehouses.**

Mayor Michalove said the Group Development plan for C & D Mini-Warehouses was submitted to Council on January 9, 1990 after receiving review and approval by the Planning and Zoning Commission with several contingencies. After discussion, this matter was continued for discussion until the January 16, 1990 meeting.

The City Manager said an agreement has been reached with the developer of the project to comply with all the contingencies specified by the Planning and Zoning Commission. He said the developer agreed to provide for adequate fire protection at the developer's expense.

Council took no action on the project; therefore, the project was approved as recommended by the Planning and Zoning Commission.

IV. NEW BUSINESS:

A. **Ordinance No. 1813 - Ordinance amending Chapter 8, Buildings, of the Code of Ordinances of the City of Asheville (amending Fire District No. 1)**

John Rukavina, Fire Chief, said a parcel of property along Asheland Avenue lies within the First Fire District of Asheville (fire districts are statutory areas where construction materials for buildings are limited, so as to prevent conflagrations), but a structure proposed for construction thereon protrudes only 20 feet into that District. This proposed ordinance amendment would exclude this property from this Fire District and remove fire district limitations from the proposed structure.

Carroll Hughes, President of Spaceplan, spoke in favor of the ordinance.

Councilman Price moved for the adoption of Ordinance No. 1813. This motion was seconded by Vice-Mayor Moore.

On a roll call vote of 7-0, Ordinance No. 1813 passed on first reading.

Councilman Price moved to suspend the rules and proceed to the second reading of Ordinance No. 1813. This motion was seconded by Councilman Ellison and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1813 passed on second reading.

Councilman Price moved to suspend the rules and proceed to the third reading of Ordinance No. 1813. This motion was seconded by Councilman Ellison and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1813 passed on third and final reading.

Ordinance Book No. 12 - Page 65-66

B. **Ordinance No. 1814 - Budget Amendment to appropriate Fair Housing Assistance Program Grant funds.**

Mayor Michalove said the City has received approval from the Department of Housing and Urban Development for the Third year funding of the Fair Housing Assistance Program in the amount of $3,650. This action will appropriate the funds into the budget. The project will be administered by the Asheville-Buncombe Community Relations Council under contract with the City of Asheville.

Councilman Estes moved for the adoption of Ordinance No. 1814. This motion was seconded by Vice-Mayor Moore.

On a roll call vote of 7-0, Ordinance No. 1814 passed on first and final reading.

Ordinance Book No. 12 - Page 67

C. **Resolution No. 90-12 - Resolution appointing member to the Asheville-Buncombe Community Relations Council.**

Mayor Michalove said this resolution will appoint Bernadette Thompson as a member of the Asheville-Buncombe Community Relations Council.

Upon motion of Councilman Bratton, seconded by Councilman Price, Resolution No. 90-12 was unanimously adopted.

Resolution Book No. 18 - Page 71

V. CONSENT:

VI. OTHER BUSINESS:

COUNCILMAN ELLISON - LOW WATER PRESSURE - NORTH

Councilman Ellison requested that the City Manager furnish members of Council with a report and recommendation to improve the low water pressure in the north section.

CLAIMS - RICKY JACKSON (WATER) - KEVIN K. RHEW (SEWER) - COY AND MARY RADFORD (WATER)- JAMES HILL (SEWER) - MR. AND MRS. HOWARD FISHER (SEWER) - MRS. FRED KRAUSS (WATER)

The City Manager said claims were received from Ricky Jackson, Kevin K. Rhew, Coy and Mary Radford, James Hill, Mr. and Mrs. Howard Fisher, and Mrs. Fred Krauss.

Mayor Michalove referred the claims to the City Attorney for investigation and recommendation.

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 6:00 p.m.

H. M. Michalove
MAYOR

William N. Malcolm
CITY CLERK

Tuesday - January 23, 1989 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William O. Moore; Councilmen Wilhelmina Bratton, Eugene W. Ellison, William W. Estes, Mary Lloyd Frank, and Norma T. Price; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Vice Mayor Moore.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the minutes of the January 16, 1990 meeting as submitted.

I. PROCLAMATIONS:

II. PUBLIC HEARINGS:

A. **Public hearing relative to closing a portion of Rosewood Avenue.**

Mayor Michalove said a petition was received requesting that an unopened portion of Rosewood Avenue be closed. This unopened remnant of Rosewood Avenue occurred when adjoining property was re-subdivided and the developers of the subdivision redesigned the street system. The closing has been reviewed by the Technical Review Committee and found to have no effects upon water or sewer utilities or any other uses advantageous to the City.

Mayor Michalove opened the public hearing at 4:04 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

The City Manager said the petitioner is responsible for posting the required notices at the portion of the street to be closed, also for other legal notices to adjacent property owners, and for presenting an affidavit stating that all required legal notification

has been made. He said notification to all adjacent property owners has not been made and requested that the Council continue the public hearing for two weeks.

Vice Mayor Moore moved to continue the public hearing, without further advertisement, until February 6, 1990. This motion was seconded by Councilman Price and carried unanimously.

B. **Continuation of a public hearing relative to adoption of an ordinance directing the Director of Building Inspections to demolish the dwelling located at 224 Flint Street.**

Mayor Michalove said this ordinance will direct the Director of Building Inspections to demolish the structures located at 224 Flint Street, Asheville, North Carolina, and in so doing, comply with the provisions of the City of Asheville Housing Code.

City Attorney William F. Slawter said property owner was sent notices by certified mail; however, he said, we have not received a certificate back from the Postal Service that the notice has been received. Therefore, he requested that Council continue the public hearing four weeks to allow sufficient time for legal publication.

Councilman Frank moved to continue the public hearing, until February 20, 1990. This motion was seconded by Councilman Ellison and carried unanimously.

C. **Continuation of a public hearing relative to adoption of an ordinance directing the Director of Building Inspections to demolish the dwellings located at 36, 38, and 40 Cumberland Avenue.**

Mayor Michalove said this ordinance will direct the Director of Building Inspections to demolish the structure located at 36, 38, and 40 Cumberland Avenue, Asheville, North Carolina, and in so doing, comply with the provisions of the City of Asheville Housing Code.

City Attorney William F. Slawter said property owner was sent notices by certified mail; however, he said, we have not received a certificate back from the Postal Service that the notice has been received. Therefore, he requested that Council continue the public hearing four weeks to allow sufficient time for legal publication.

Councilman Frank moved to continue the public hearing, until February 20, 1990. This motion was seconded by Councilman Ellison and carried unanimously.

D. Ordinance No. 1815 - Continuation of a public hearing relative to the adoption of an ordinance directing the Director of Building Inspections to demolish the dwelling located at 10 Birch Street.

Mayor Michalove said this ordinance will direct the Director of Building Inspections to demolish the structure located at 10 Birch Street, Asheville, North Carolina, and in so doing, comply with the provisions of the City of Asheville Housing Code. Mayor Michalove said this public hearing was continued at the January 16, 1990 meeting.

Fire Chief John Rukavina said posting of the property, notice to the property owner, and all other legal notices have been carried out. He said the demolition process on this dwelling began last summer, and presented a video showing the actual condition of the house.

Mayor Michalove closed the public hearing at 4:16 p.m.

Councilman Estes moved for the adoption of Ordinance No. 1813. This motion was seconded by Councilman Ellison.

On a roll call vote of 7-0, Ordinance No. 1815 passed on first reading.

Councilman Ellison moved to suspend the rules and proceed to the second reading of Ordinance No. 1813. This motion was seconded by Vice Mayor Moore and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1815 passed on second reading.

Councilman Price moved to suspend the rules and proceed to the second reading of Ordinance No. 1813. This motion was seconded by Councilman Frank and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1815 passed on third and final reading.

Ordinance Book 12, Pages 68 and 69

III. OLD BUSINESS:

A. **Ordinance No. 1812 - Second reading of an Ordinance relative to amending Chapter 30 of the Code of Ordinance of the City of Asheville to include self service storage facilities as permitted uses and conditional uses.**

Mayor Michalove said the proposed ordinance amendment defines self-service storage facilities, identifies districts in which they are permitted, and establishes standards for their development. This ordinance was read on first reading on January 16, 1990.

Gerald Green of the Planning Department presented the following revisions in the proposed ordinance for the Council's consideration.

1. In the definition, a correction has been made to limit the size of the individual stalls or lockers to 800 square feet.

2. The wording of Item 7 of the requirements for the construction of self-service storage facilities as conditional uses in the CH Commercial Highway District.

Mr. Green said this wording change provides for the required landscaping strip located at the front of the self-service storage facility development to be 20 feet wide unless the self-service storage facility is not visible from the front property line due to the construction of a building or other permanent structure between the self-service storage facility and the front property line. In this case, the landscaped strip shall be 10 feet in width.

3. The second sentence of this section to read: "The Centerline of this screening shall be placed a maximum of 60 feet in front of the first row of storage buildings". (The underlined words are the actual changes.)

Mr. Green said this wording would clearly indicate that the landscaping strip is to be located, between the street and the self-service storage facility when the facility is the only development on the property. When another building or other permanent structure is located between the street and the self-service storage facility, this wording would assure that the landscaping strip is located between the building and the self-storage facility. Thus, the landscaping strip would serve as a buffer between the self-service storage facility and the building(s) at the front of the property.

Councilman Price suggested that the third amendment be clarified by rewording and presented for Council's consideration prior to the final reading of the ordinance at next week's meeting.

Mayor Michalove said this ordinance was previously read and will not be reread in its entirety.

On a roll call vote of 7-0, Ordinance No. 1812 passed on second reading.

IV. NEW BUSINESS:

A. Ordinance No. 1816 - Ordinance amending Section 28-81.4 and Section 28-81.7 of Article IV, Speed Regulations (lowering speed limits on Midland Drive and a portion of Sweeten Creek Road (U.S. 25A)

Mayor Michalove said adoption of this ordinance will lower the existing 35 mph speed limit on Midland Drive to 30 mph and will lower the existing 50 mph speed limit on a portion of Sweeten Creek Road to 45 mph.

Mayor Michalove said a copy of this ordinance was previously distributed to members of Council, and the ordinance would not be read in its entirety unless there was a specific request to do so.

Councilman Ellison requested that the City Manager furnish the Council with a copy of traffic studies and any other criteria used to justify a recommendation to lower speed limits when future requests are presented to the City Council.

Upon inquiry of Vice Mayor Moore, the City Manager said when a street is being monitored and vehicles are consistently exceeding the posted speed limit, this information is passed on to the Police Chief so enforcement measures can be taken.

Councilman Frank moved for the adoption of Ordinance No. 1814. This motion was seconded by Vice Mayor Moore.

On a roll call vote of 7-0, Ordinance No. 1816 passed on first reading.

B. Ordinance No. 1817 - Budget ordinance amendment appropriating funds for Sign Survey.

Mayor Michalove said Ordinance 1801 (12-4-89) requires staff to accomplish a complete sign survey in the zoning jurisdiction of the City. In order to complete this task funding will need to be provided by Council.

Councilman Ellison requested that the City Manager furnish the Council with a report on the cost of the sign survey project for the first 30 days.

By use of a map, Verl Emrick of the Planning Department pointed out the districts for the survey work - District #1 is North, #2 is East, #3 is South of the Swannanoa River, #4 is West of the French Broad River, and #5 is the Central Business area. He said training of personnel would be done in the Charlotte Street area.

Mayor Michalove said a copy of this ordinance was previously distributed to members of Council, and the ordinance would not be read in its entirety unless there was a specific request to do so.

Councilman Bratton moved for the adoption of Ordinance No. 1815. This motion was seconded by Councilman Price.

On a roll call vote of 7-0, ordinance No. 1817 passed on first and final reading.

Ordinance Book 12, Page 71

V. CONSENT:

A. Schedule public hearing relative to request to rezone property on Piedmont Avenue for February 20, 1990 - Thompson.

SUMMARY: The Asheville Planning and Zoning Commission on January 3, 1990, reviewed and recommended approval of rezoning Ward 9, Sheet 6, Lots 41 from R-3 Residential District to CH Commercial Highway.

B. Schedule public hearing relative to request to rezone property on Haywood Road for February 20, 1990 - Smith.

SUMMARY: The Asheville Planning and Zoning Commission on January 3, 1990, reviewed and recommended approval of rezoning Ward 6, Sheet 9, Lots 19-3/4 and 20 from R-3 Residential District to CS Commercial Service.

C. Resolution No. 90-13 - Resolution appointing members to the Economic Development Partnership.

SUMMARY: This resolution will appoint Kenneth M. Michalove and William G. Moore as members of the Economic Development Partnership.

Resolution Book 18, Page 72

D. Resolution No. 90-14 - Resolution appointing member to the Asheville Transit Authority.

SUMMARY: This resolution will appoint Myra N. Grant as a member of the Asheville Transit Authority.

Resolution Book 18, Page 73

VI. OTHER BUSINESS:

A. Downtown Parking Validation System - Report by City Manager

The City Manager said approximately one year ago the Council adopted a new motor vehicle tax ordinance, which invalidated the City Sticker Program. However, since it was Council's desire not to abruptly end the program, a $5 coupon was issued to permit free parking in the city garages. He said the issuance of the $5 coupon has been evaluated, and since the motor vehicle tax is now billed and collected on the tax bill generated by the County, the City has no way of recognizing who has or has not paid the tax. In addition, he said, it cost the city over $8,000 last year to redeem 700+ coupons. He said because it costs more to administer than it benefits the public, he could not recommend that Council continue the program.

The City Manager said the public can obtain free parking through the downtown validation parking programs sponsored by merchants in the downtown area. He said so far this program has been very successful.

Upon inquiry of Council, the City Manager said any old coupons which had been used were still valid.

B. Claims - Mr & Mrs. Roy Williams (Water) - James Stafford (Water) - Walter Schooler (Police) - Florence Reed (Water)

The City Manager presented claims received from Mr. and Mrs. Roy Williams, James Stafford, Walter Schooler, and Florence Reed.

Mayor Michalove referred the claims to the City Attorney for investigation and recommendation.

VII. ADJOURNMENT

Mayor Michalove adjourned the meeting at 4:52 p.m.

K. M. Michalove
MAYOR

William F. Moloney
CITY CLERK

Tuesday - January 30, 1990 - 4:00 P.M.

Regular Meeting

Present: Vice-Mayor William G. Moore, Presiding; Councilmen Mary Lloyd Frank, Norma T. Price, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Mayor Kenneth M. Michalove and Councilman Wilhelmina Bratton.

INVOCATION

The invocation was given by Councilman Price.

APPROVAL OF MINUTES

Vice-Mayor Moore announced the approval of the minutes of the January 23, 1990 meeting as submitted.

I. PROCLAMATIONS:

A. **Recognition of employee naming City Wellness Newsletter.**

John Miall, from the Personnel Department, said under the Wellness contract with St. Joseph's Hospital, a monthly wellness newsletter will be published for City employees and their families. He said the Personnel Department, Wellness Committee, offered a $50.00 reward to the employee whose name was selected for the newsletter. On January 17, 1990, the Committee met and selected Ms. Ann Gordon's entry, "WELL, I'LL BE...." as the winning entry.

Mr. Miall presented a $50.00 check to Ann Gordon of the Personnel Department for naming the employee wellness newsletter.

C. **Proclamation proclaiming February, 1990 as "Heart of Asheville Month"**

Vice-Mayor Moore read the proclamation and presented it to Robin Daniel, on behalf of the Asheville Downtown Association.

D. **Resolution No. 90-15 - Resolution recognizing Oralene Simmons for attending United Nations Reception honoring Dr. Martin Luther King.**

Ray Kisiah, Director of Parks and Recreation, said Ms. Oralene Simmons was invited to attend a special reception in honor of Dr. Martin Luther King and Ms. Coretta Scott King at the United Nations Building on Wednesday, January 17, 1990. Ms. Simmons, a member of the N. C. Martin Luther King, Jr. Holiday Commission was one of only two people invited from North Carolina to this international reception of 100 guests.

Mr. Kisiah said Ms. Simmons was invited because of her work toward making the local Martin Luther King, Jr. celebration in Asheville such a success. He said this year, Asheville hosted the N. C. celebration in conjunction with the state celebration.

Vice-Mayor Moore read the resolution.

Upon motion of Councilman Price, seconded by Councilman Ellison, Resolution No. 90-15 was unanimously adopted.

Resolution Book 18 - Page 74

II. PUBLIC HEARINGS:

III. OLD BUSINESS:

A. Ordinance No. 1812 - Third reading of an Ordinance relative to amending Chapter 30 of the Code of Ordinance of the City of Asheville to include self service storage facilities as permitted uses and conditional uses.

Vice-Mayor Moore said the proposed ordinance amendment defines self-service storage facilities, identifies districts in which they are permitted, and establishes standards for their development. This ordinance was read on first reading on January 16, 1990 and on second reading on January 23, 1990.

Vice-Mayor Moore said the ordinance was previously read on first and second reading and would not be reread in its entirety.

At the request of the City Attorney, Councilman Price moved to amend Ordinance No. 1812, Section 30-7-1 (L) (7) Landscaping Requirements to read as follows: "In lieu of the requirements of Section 30-3-14(G), a landscaped strip of twenty (20) feet in width shall be provided to screen the self-service storage facility buildings. The centerline of this screening shall be placed a maximum of 60 feet in front of the first row of storage buildings, in order to facilitate the purpose of this ordinance, which is to provide screening within closed proximity of the storage buildings and further to provide for the screening to be between the self-service

storage facility buildings and any development between said buildings and the street." This motion was seconded by Councilman Frank and carried unanimously.

On a roll call vote of 5-0, Ordinance No. 1812, as amended, passed on third and final reading.

Ordinance Book 12 - Page 58 - 64

B. **Ordinance No. 18186 - Second reading of an ordinance amending Section 28-81.4 and Section 28-81.7 of Article IV, Speed Regulations (lowering speed limits on Midland Drive and a portion of Sweeten Creek Road (U.S. 25A)**

Vice-Mayor Moore said this action will lower the existing 35 mph speed limit on Midland Drive to 30 mph and will lower the existing 50 mph speed limit on a portion of Sweeten Creek Road to 45 mph. This ordinance was read on first reading on January 23, 1990.

Vice-Mayor Moore said this ordinance was previously read on first reading and will not be reread in its entirety.

On a roll call vote of 5-0, Ordinance No. 1816 passed on second reading.

IV. NEW BUSINESS:

A. **Ordinance amending Chapter 5 (Animals and Fowls) of the Code of Ordinances of the City of Asheville.**

The City Attorney said the present ordinance places no limitations on the number of animals which may be permitted and the amendment places a limit of twenty-five (25) animals on lots of less than one (1) acre. He said the present ordinance gives the power to permit to the Animal Control Officer and the amendment places the responsibility in the hands of the City Manager, or his designee. He said the ordinance will also require that the general character of the neighborhood and the nature of any complaints received from neighboring property owners be considered in issuing permits, as is the case with the existing ordinance.

R. L. Carver, from the Asheville Police Department, answered general questions from members of Council relative to the proposed ordinance.

John Robinson, 24 Springside Drive, spoke to members of Council relative to a problem from 20 Springside Drive. He said a permit was issued to the owner of 20 Springside Drive for more than 25 cats. He said the area smells and is unsightly. He said many complaints

have been filed with the Animal Control Officer and nothing has been done. He said the ordinance should limit the number of animals that can be kept and all animals should be confined within a fenced area. He said he had talked with Councilman Price and Councilman Bratton about this matter.

William Darden, 20 Springside Drive, said he felt this ordinance was intended directly toward him and he is going to court against the city about this matter.

Councilman Ellison moved to table action on this proposed ordinance until Council members have an opportunity to discuss it further. This motion was seconded by Councilman Estes.

Councilman Price asked that the record show that she has not talked with any of the residents involved in the matter within the past four (4) years and this ordinance was not initiated by Council but from the neighborhood.

After discussion, Councilman Ellison and Councilman Estes withdrew their motion to table.

No action was taken on the ordinance and it was the intent of Council that this matter be brought back for consideration at a later date.

Glen Atkins, a resident on Springside Drive, said some action needs to be taken to correct the problems at 20 Springside Drive.

B. **Ordinance No. 1818 - Budget ordinance amendment appropriating funds for Stormwater Inventory.**

Vice-Mayor Moore said the Storm Water Inventory being developed by CH2M Hill Consulting Engineer requires $200,000 in additional funds to continue the inventory and complete it as outlined in the CH2M Hill contract. A budget amendment to accomplish the inventory is required. The increase in funds to complete the inventory is the result of new annexation areas and underestimation of the total number of drainage structures in the original structure estimate.

Vice-Mayor Moore said this ordinance was previously presented to members of Council and it would not be read in its entirety.

Councilman Price moved for the adoption of Ordinance No. 1818. This motion was seconded by Councilman Frank.

On a roll call vote of 5-0, Ordinance No. 1818 passed on first and final reading.

V. CONSENT:

VI. OTHER BUSINESS:

CLAIMS - RANDY E. DAVIS (FIRE) - SHULIMSON BROTHERS CO., INC. (WATER) - GERALD T. HARRIS (WATER) - TIM BRADLEY (STREETS) - MIKE GATLIN (WATER) - JAMES C. SMITH (WATER) - BRUCE McTAGGART (SEWER)

The City Manager presented claims received from Randy E. Davis, Shulimson Brothers Co., Inc., Gerald T. Harris, Tim Bradley, Mike Gatlin, James C. Smith and Bruce McTaggart.

Vice-Mayor Moore referred the claims to the City Attorney for investigation and recommendation.

ANNOUNCEMENTS - MEETINGS RELATIVE TO NEW CRIMINAL JUSTICE CENTER

The City Manager announced that the Greater Asheville Council has invited Council members to attend a meeting Thursday, at 5:00 p.m. at the Downtown City Club to discuss the bond election for the new Criminal Justice Center. He said a full blown presentation will also be given at 8:00 a.m. on Monday, February 5, 1990 at Asheville-Buncombe Technical Institute by the architect for the new Criminal Justice Center.

DAVE CHEADLE - ART SIGN COMPANY - REQUEST TO AMEND SIGN PERMIT FEES

Dave Cheadle, owner of Art Sign Company, requested that Council look into changing the method of sign permit fees. He said the present fee schedule is based on square footage and is discriminatory to the small business person. He said, for example, a sign costing $700 has a permit fee of $192.00 and a sign the same size costing $5,000 also has a permit fee of $192.00. He said the small business person can not afford this exorbitant fee.

Vice-Mayor Moore said Council would look into Mr. Cheadle's request and give him a report back.

VII. ADJOURNMENT:

Vice-Mayor Moore adjourned the meeting at 5:00 p.m.

R.M. Muchmore
MAYOR

William D. Wolcott
CITY CLERK

Tuesday - February 6, 1990 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Councilman Bratton.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the minutes of the January 30, 1990 meeting.

I. PROCLAMATIONS:

A. **Recognition of "BEST" Employee of the Year - Celia Lytle**

The City Manager introduced Celia Lytle, employee in the Purchasing/Warehousing Division, who was nominated as "BEST" Employee of the Year in connection with the City's "BEST" program. He said "BEST" stands for "Becoming Excellent Servants Team". He said Celia was nominated by many coworkers for showing good customer relations skills.

B. **Proclamation - "Post Anesthesia Nurses Awareness Week" - February 5 - 11, 1990**

Mayor Michalove read the proclamation and presented a copy to Kathy Wilborn with the Post Anesthesia Nurses Association.

C. **Proclamation - "National Salute to Hospitalized Veterans Week" - February 11 - 17, 1990**

Mayor Michalove read the proclamation and presented a copy to Stan Johnson, Associate Medical Center Director, and Darlene Kirstein, Director of Volunteer Services, VA Hospital.

D. **Presentation of USS Asheville Replica by Asheville Cablevision**

Joe Haight, General Manager of Asheville Cablevision, presented a replica of the USS Asheville purchased by Asheville Cablevision for the City of Asheville.

Mr. Haight also presented a contract to the City of Asheville for the removal of fire alarm wire to be removed by the employees of Asheville Cablevision. He said the wire would be sold and the money would be given to the Irene Wortham Center. He said they anticipate receiving in excess of $10,000.

Mr. Haight also introduced several staff members of Asheville Cablevision.

II. PUBLIC HEARINGS:

A. Continuation of a public hearing relative to closing a portion of Rosewood Avenue.

Resolution No. 90-16 - Resolution closing a portion of Rosewood Avenue

Mayor Michalove said a petition was received requesting that an unopened portion of Rosewood Avenue be closed. This unopened remnant of Rosewood Avenue occurred when adjoining property was resubdivided and the developers of the subdivision redesigned the street system. The closing has been reviewed by the Technical Review Committee and found to have no effects upon water or sewer utilities or any other uses advantageous to the City.

Mayor Michalove said this public hearing was held on January 23, 1990 and continued until February 6, 1990 until all adjacent property owners could be notified.

The City Attorney noted that all adjacent property owners have been notified of the proposed closing of a portion of Rosewood Avenue.

Ron Sneed, Attorney for the petitioner, appeared before Council requesting the closing of a portion of Rosewood Avenue.

Mayor Michalove closed the public hearing at 4:18 p.m.

Mayor Michalove said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Vice-Mayor Moore, Resolution No. 90-16 was unanimously adopted.

B. Public hearing relative to rezoning property located at I-240 - Bear Creek Road - Jim Price, Wyatt Development Company, Developer.

Mayor Michalove said the Asheville Planning and Zoning Commission on November 1, 1989, voted to deny the rezoning petition of Lot 1, Sheet 16, Lower Hominy; Lot 6-1/2, Sheet 17, Lower Hominy; and Portion of Lot 1, Sheet 16, Ward 5, from R-3 Residential District to CH Commercial Highway District. They voted to continue this petition for reconsideration to the December 6 meeting. There was no motion to reconsider, therefore, the denial of November 1 stood.

Mayor Michalove opened the public hearing at 4:22 p.m. He explained the procedure for conducting the public hearing. He said a spokesman for a group would be allowed to address Council with unlimited time. He said individuals would be limited to three (3) minutes. He said a paper would be circulated among the audience that individuals could sign voicing their support or opposition to the rezoning. He asked that members of the public not repeat concerns that have already been expressed.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

The City Attorney said members of Council are required to review the rezoning request on the merits of the Commercial Highway District zone and not on the proposed use for the property.

He said pursuant to the Zoning Ordinance the adjacent property owners presented a protest petition on February 2, 1990 with sufficient signatures to invoke a 3/4 vote requirement to rezone the property in question. He said therefore it would take six (6) affirmative votes to rezone the property.

Carol Alberice, Planning Department, reviewed the rezoning request stating that the property consists of 92.29 acres and is within Asheville's extraterritorial zoning district. She said the property is located off I-240 at Bear Creek Road and is currently zoned R-3 Residential District. She showed a video of the property requested to be rezoned. She said a portion of the property is located within the flood plain of Hominy Creek.

Mrs. Alberice reviewed the background of rezoning requests for this property. She said the 2010 Comprehensive Plan shows this property as medium density residential.

She also reviewed the recommendation of the Planning and Zoning Commission rendered in November, 1989. She said the rezoning was denied on a vote of 5-1.

Mike Moser, Chairman of the Planning and Zoning Commission, also reviewed the recommendation of the Commission. He said Council should keep in mind this is a rezoning request and not a group development approval. He said there is no special use zoning for this area that this specific project could utilize.

Jack Stevens, Attorney representing Wyatt Development Company, requested that Council rezone this property to permit the proposed project by his client. He said the proposed project is unlike any other in this area and will not compete with other shopping centers in the area but will complement the shopping centers. He said the developer proposes a Sam's Discount Store and will invest $30 million in land and improvements and $5 million in road improvements. He said the proposed project will have a minimum impact on traffic in the area. He said the project will create approximately 1,000 jobs for the area and will be an investment for the community. He said his client fully expects to be annexed in the City when his development is complete. He said the land proposed to be developed has been vacant for a number of years and this project would be a major investment for the City. He said a multifamily use of this property would generate more traffic.

Jim Price, of Wyatt Development Company, said his company has had public meetings in the area to address the concerns of the residents. He said his company will be using 60-65 acres of the 92 acres for the project and they are willing to have just the 60-65 acres rezoned. He said the wooded area that would remain zoned R-3 would not be disturbed and would be a buffer for the R-3 Residential property. He presented a rendering of the proposed shopping center.

Roger Lewis, Frank Coleman and Associates, Inc., consulting traffic engineers, presented a traffic impact analysis for the proposed shopping center at I-240/Bear Creek Road. (Traffic impact analysis on file in the Planning Department)

Mr. Stevens presented a rendering of a possible multifamily residential unit that could be developed under the present zoning.

Mr. Stevens said he would like to be afforded an opportunity to review the protest petition that was presented.

The following individuals spoke in opposition to the rezoning stating that the proposed project would increase traffic in the area; would affect the environment in the area; is in conflict with the 2010 plan; will create competition for existing shopping centers; and the project will upset the precedent for downtown revitalization.

Bob Yeager - School Road
Kathy Watley - Bear Creek Road
Sylvia Robinson - Arthur Road
Paul Forte - Malvern Hills - Arthur Road
Kent Hewitt - Malvern Hills - 19 Cranford Road
Michael Green -
Mark Rosenstein - Asheville Downtown Association
Carroll Hughes, Architect - 39 Patton Avenue
Robert Carr - 370 Midland Drive
Stacy Dortch - Mothers of Malvern Hill Association
Paul Greene - Malvern Hills
Carlton Cranford - 105 Shelburne Road
Jane Gionvita -
Phyliss Armstrong - 11 Bear Creek Road
Hazel Fobes -
Charles Harkins - School Road - Malvern Hills
Mr. Peyton - Asheville School

The following individuals spoke in support of the rezoning stating that the project will be good for the economy and will increase revenue through taxes.

Dr. L. C. Waller - 7 Shady Lane - Candler, N. C.,
McClain Hall - petitioner for rezoning
E. G. Roberts - School Road
Deborah Bates - presented petition in favor of the rezoning containing approximately 80 signatures.
Eddie Evans - Pastor of Trinity Baptist Church
Jerry Young - 6 Rash Road
Bea Coates - South Bear Creek Road
Evonne Robinson - 181 Bear Creek Road

The developers answered general questions from members of Council.

Bob McDonald, Traffic Engineer, said existing traffic counts are consistent with the traffic impact analysis presented by the developers.

Upon inquiry, Julia Cogburn, Director of Planning, said the Planning and Zoning Commission did not consider rezoning the reduced area and leaving the remainder R-3 Residential District.

After a lengthy discussion, Mayor Michalove closed the public hearing at 7:14 p.m.

Mayor Michalove said the ordinance was previously presented to members of Council and it would not be read in its entirety.

Councilman Ellison said he was not prepared to vote on the issue today since he had received new information and he would be in favor of remanding the rezoning to the Planning and Zoning Commission in order that the Commission could consider the rezoning of the reduced area.

Vice-Mayor Moore said he would object to the rezoning since it is a violation of the 2010 Comprehensive Plan.

Councilman Estes said he felt he needed more time to study the rezoning request.

Councilman Price moved to support the recommendation of the Planning and Zoning Commission and to deny the rezoning request. This motion was seconded by Vice-Mayor Moore.

Councilman Ellison made a substitute motion to remand the rezoning to the Planning and Zoning Commission in order that the Commission could consider rezoning the 62 acres instead of the 92 acres. This motion was seconded by Councilman Estes.

After discussion, Councilman Bratton moved to postpone action on the rezoning request for two (2) weeks. This motion died for the lack of a second. (A discussion was held whether or not the Mayor could second a motion - since it was undecided Councilman Bratton's motion died for the lack of a second).

On a voice vote of 5-2, Councilman Ellison's substitute motion failed with Councilman Ellison and Councilman Estes voting "aye" and Mayor Michalove, Vice-Mayor Moore, Councilman Bratton, Councilman Frank, and Councilman Price voting "no".

Vice-Mayor Moore called for the question on the original motion.

On a voice vote of 4-3, Councilman Price's motion to accept the recommendation of the Planning and Zoning Commission and to deny the rezoning request failed with Councilman Frank, Councilman Price, and Vice-Mayor Moore voting "aye" and Mayor Michalove, Councilman Bratton, Councilman Ellison, and Councilman Estes voting "no".

Councilman Bratton then moved to postpone action on the rezoning request for two (2) weeks. This motion was seconded by Councilman Ellison and carried on a voice vote of 5-2, with Vice-Mayor Moore and

Councilman Frank voting "no" and Mayor Michalove, Councilman Ellison, Councilman Bratton, Councilman Estes and Councilman Price voting "aye".

The City Attorney said he would continue to research to determine the right of the Mayor to make a motion and/or second a motion.

III. OLD BUSINESS:

A. Ordinance No. 1816 - Third reading of an ordinance amending Section 28-81.4 and Section 28-81.7 of Article IV, Speed Regulations (lowering speed limits on Midland Drive and a portion of Sweeten Creek Road (U.S. 25A)

Mayor Michalove said this action will lower the existing 35 mph speed limit on Midland Drive to 30 mph and will lower the existing 50 mph speed limit on a portion of Sweeten Creek Road to 45 mph. This ordinance was read on first reading on January 23, 1990 and on second reading on January 30, 1990.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

On a roll call vote of 7-0, Ordinance No. 1816 passed on third and final reading.

Ordinance Book No. 12 - Page 70

IV. NEW BUSINESS:

A. Ordinance No. 1819 - Budget amendment for ATA Capital Funds FY 89.

Mayor Michalove said this budget amendment is for $64,000 which is the ATA Capital Grant for FY 89. Since the grant contract was not approved by UMTA until June of 1989 due to the legal issues that evolved with the 13 (c) labor agreement, the staff failed to setup a line item in the 67 Fund for the capital purchases.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Price moved for the adoption of Ordinance No. 1819. This motion was seconded by Councilman Ellison.

On a roll call vote of 7-0, Ordinance No. 1819 passed on first and final reading.

Ordinance Book No. 12 - Page 73

B. **Ordinance No. 1820 - Budget Amendment for Planning Work Program Funds FY 90.**

Mayor Michalove said the City's budget amendments for the Planning Work Program elements for FY 90, which include the original funding (June 27, 1989) and the increase in funding (August 22, 1989) for the transit consultant were inadvertently omitted in the Section 9 applications submitted to Council.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Estes moved for the adoption of Ordinance No. 1820. This motion was seconded by Councilman Price.

On a roll call vote of 7-0, Ordinance No. 1820 passed on first and final reading.

Ordinance Book No. 12 - Page 74

C. **Ordinance No. 1821 - Budget Amendment to appropriate funds for Citywide Housing Rehabilitation Program**

Mayor Michalove said this budget amendment will appropriate $230,000 of CDBG land sale program income for the Citywide Housing Rehabilitation Program which is administered by the Housing Authority.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Vice-Mayor Moore moved for the adoption of Ordinance No. 1821. This motion was seconded by Councilman Frank.

On a roll call vote of 7-0, Ordinance No. 1821 passed on first and final reading.

Ordinance Book No. 12 - Page 75

V. CONSENT:

A. **Sale of Disposal Parcel 151 - East End/Valley Street Community Improvement Program.**

SUMMARY: The Housing Authority has tentatively accepted a bid for Disposal Parcel 151 in the East End/Valley Street Community Improvement Program. This action will accept their recommendation.

B. **Bids for annual contract for bituminous concrete materials (asphalt).**

SUMMARY: Award of term purchase contract to furnish the City's annual requirement for Bituminous Concrete Materials (Asphalt) to the only bidder, APAC-Carolina, Inc., Asheville, North Carolina, for a total of $176,425.00

C. **Resolution No. 90-17 - Resolution authorizing the City Manager to sign an application for grant funds from the North Carolina Arts Council and to enter into an agreement with North Carolina Arts Council for administration of the grant.**

SUMMARY: This action will authorize the City Manager to sign an application for grant funds for $1,500 from the N. C. Arts Council to promote the arts in the Afternoon Rooms at five sites through a series of children's instructional programs.

Resolution Book No. 18 - Page 77

Upon motion of Vice-Mayor Moore, seconded by Councilman Frank, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

CLAIMS - THOMAS FERREIRA (WATER) - ARCHIE HUNTSINGER (STREETS) - WANDA PUTNAM (WATER) - OPHELIA LOGAN (STREETS) - JOHN PAVONE (WATER) - GLEN GENTRY (WATER) - PHILIP FERGUSON (POLICE) - HAMILTON GREGORY (WATER)

Claims were presented from Thomas Ferreira, Archie Huntsinger, Wanda Putnam, Ophelia Logan, John Pavone, Glen Gentry, Philip Ferguson, and Hamilton Gregory.

Mayor Michalove referred the claims to the City Attorney for investigation and recommendation.

COURT DECISION - CHESTNUT/LIBERTY STREET HISTORIC DISTRICT

The City Attorney announced that the North Carolina Court of Appeals upheld the decision of the Superior Court making the Chestnut/Liberty Street Historic District nonexistent.

Mayor Michalove asked the City Attorney to give members of Council a full report on this matter during the Pre-Council work session on February 20, 1990.

MEETING OF FEBRUARY 13, 1990 CANCELLED

Mayor Michalove announced that the regular meeting scheduled for February 13, 1990 has been cancelled since the majority of Council members will be attending a meeting in Chapel Hill.

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 8:30 p.m.

H.M. Michalove
MAYOR

Miriam F. Nolan
CITY CLERK

Regular Meeting - February 13, 1990

AGENDA

The following has been set as the tentative agenda for the February 13, 1990 regular meeting of the City Council. At the conclusion of this agenda the meeting will be open for the presentation of other matters by members of Council and the public

NO MEETING - COUNCIL IN CHAPEL HILL

Tuesday - February 20, 1990 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Deputy City Clerk Carol Hensley.

Absent: Associate City Manager/City Clerk William F. Wolcott, Jr.

INVOCATION

The invocation was given by Councilman Estes.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the minutes of the February 6, 1990 meeting as submitted.

STUDENT REPRESENTATIVES INTRODUCED

Assistant City Manager Charles Penny introduced Angela Minor, a sophomore at UNC-A, majoring in Political Science. He said Ms. Minor would be attending the next four Council meetings in connection with a Public Affairs Reporting Class.

Mr. Penny also introduced Shanae Sexton, a Junior at Asheville High School and Class President, and Shaneta Earle, a Sophomore at Asheville High School and Vice-President of the Sophomore Class. He said they are the Asheville High School student representatives to City Council for the next four (4) Council meetings.

ASHEVILLE BREAKFAST LIONS CLUB - COLLECTION OF ALUMINUM

Johnny Clarke announced that the Asheville Breakfast Lions Club will have collection points throughout the City for aluminum. He said the funds from the sale of the aluminum will be used for Asheville Breakfast Lions Club projects.

I. PROCLAMATIONS:

A. Resolution No. 90-18 - Resolution recognizing recent retiree, Joe Morris.

John Rukavina, Chief of the Fire Department, recognized Joe Morris, Inspection Specialist, for his 14 years of service with the City of Asheville. Mr. Morris retired effective January 1, 1990.

Mayor Michalove read the resolution.

Upon motion of Councilman Price, seconded by Councilman Ellison, Resolution No. 90-18 was unanimously adopted.

Mayor Michalove presented the resolution to Mr. Morris.

Resolution Book No. 18 - Page 78

II. PUBLIC HEARINGS:

A. Continuation of a public hearing relative to an ordinance directing the Director of Building Inspections to demolish the dwelling located at 224 Flint Street.

Ordinance No. 1822 - Ordinance directing the Director of Building Inspections to demolish the dwelling located at 224 Flint Street.

Mayor Michalove said this ordinance will direct the Director of Building Inspections to demolish the structure located at 224 Flint Street, Asheville, North Carolina, and in so doing, comply with the provisions of the City of Asheville Housing Code. This public hearing was continued from the January 16, 1990 meeting pending further notification to all property owners.

The City Attorney said all parties involved with this particular property have been legally notified.

Bob Hixon, Director of Inspections, reviewed the condition of 224 Flint Street and explained the legal process to demolish the dwelling. He showed a video tape of the property in question.

Mayor Michalove closed the public hearing at 4:20 p.m.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Frank moved for the adoption of Ordinance No. 1822. This motion was seconded by Vice-Mayor Moore.

On a roll call vote of 7-0, Ordinance No. 1822 passed on first reading.

Councilman Frank moved to suspend the rules and proceed to the second reading of Ordinance No. 1822. This

motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1822 passed on second reading.

Councilman Frank moved to suspend the rules and proceed to the third reading of Ordinance No. 1822. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1822 passed on third and final reading.

Ordinance Book No. 12 - Page 76 - 77

B. Continuation of a public hearing relative to an ordinance directing the Director of Building Inspections to demolish the dwellings located at 36, 38, and 40 Cumberland Avenue.

Ordinance No. 1823 - Ordinance directing the Director of Building Inspections to demolish the dwellings located at 36, 38, and 40 Cumberland Avenue.

Mayor Michalove said this ordinance will direct the Director of Building Inspections to demolish the structure located at 36, 38, and 40 Cumberland Avenue, Asheville, North Carolina, and in so doing, comply with the provisions of the City of Asheville Housing Code. This public hearing was continued from the January 16, 1990 meeting pending further notification to all property owners.

The City Attorney said all parties involved with this particular property have been legally notified.

Bob Hixon, Director of Inspections, reviewed the condition of 36, 38, and 40 Cumberland Avenue explained the legal process to demolish the dwelling. He showed a video tape of the property in question.

Mayor Michalove closed the public hearing at 4:30 p.m.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Frank moved for the adoption of Ordinance No. 1823. This motion was seconded by Vice-Mayor Moore.

On a roll call vote of 7-0, Ordinance No. 1823 passed on first reading.

Councilman Frank moved to suspend the rules and proceed to the second reading of Ordinance No. 1823. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1823 passed on second reading.

Councilman Frank moved to suspend the rules and proceed to the third reading of Ordinance No. 1823. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1823 passed on third and final reading.

Ordinance Book No. 12 - Page 78 - 79

C. Public hearing relative to rezoning property located on Piedmont Avenue - Thompson.

Ordinance No. 1824 - Ordinance amending Zoning of property located at Five Piedmont Street (Petition of Miles Thompson, Trustee)

Mayor Michalove said the Asheville Planning and Zoning Commission on January 3, 1990, reviewed and recommended approval of rezoning Ward 9, Sheet 6, Lots 41 from R-3 Residential District to CH Commercial Highway.

Mayor Michalove opened the public hearing at 4:33 p.m.

The City Clerk presented the notice to the public setting the time and date of the public hearing and the affidavit of publication.

Carol Alberice, from the Planning Department, summarized the rezoning request. She said the property is located behind the Animal Hospital on Beaverdam Road. She reviewed the zoning of surrounding properties and said this rezoning is in accordance with the 2010 Comprehensive Plan. She said no opposition has been received relative to the rezoning.

Mayor Michalove closed the public hearing at 4:37 p.m.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Frank moved for the adoption of Ordinance No. 1824. This motion was seconded by Vice-Mayor Moore.

On a roll call vote of 7-0, Ordinance No. 1824 passed on first reading.

D. **Public hearing relative to rezoning property located on Haywood Road - Smith.**

Ordinance No. 1825 - Ordinance amending Zoning of property located on Haywood Road (Petition of Jack Smith, Agent)

Mayor Michalove said the Asheville Planning and Zoning Commission on January 3, 1990, reviewed and recommended approval of rezoning Ward 6, Sheet 9, Lots 19-3/4 and 20 from R-3 Residential District to CS Commercial Service.

Mayor Michalove opened the public hearing at 4:39 p.m.

The City Clerk presented the notice to the public setting the time and date of the public hearing and the affidavit of publication.

Carol Alberice, from the Planning Department, summarized the rezoning request. She said the property is located on Haywood Road, bordered by Dorchester Street. She reviewed the zoning of surrounding properties and said this rezoning is in accordance with the 2010 Comprehensive Plan. She said residential property would be protected by the buffering requirements. She said no opposition has been received relative to the rezoning.

Mayor Michalove closed the public hearing at 4:43 p.m.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Bratton moved for the adoption of Ordinance No. 1825. This motion was seconded by Councilman Frank.

On a roll call vote of 7-0, Ordinance No. 1825 passed on first reading.

III. OLD BUSINESS

A. Continuation of consideration of an ordinance relative to rezoning property located at I-240 - Bear Creek Road - Jim Price, Wyatt Development Company, Developer.

Mayor Michalove said the Asheville Planning and Zoning Commission on November 1, 1989, voted to deny the rezoning petition of Lot 1, Sheet 16, Lower Hominy; Lot 6-1/2, Sheet 17, Lower Hominy; and Portion of Lot 1, Sheet 16, Ward 5, from R-3 Residential District to CH Commercial Highway

District. They voted to continue this petition for reconsideration to the December 6 meeting. There was no motion to reconsider, therefore, the denial of November 1 stood.

Mayor Michalove said a public hearing was held on this matter on February 6, 1990 and the meeting would not be opened back up for public comments. He said the developer would be given an opportunity to speak and the spokesman for the neighborhood and then Council would make a decision on the rezoning.

Upon inquiry of Attorney Jack Stevens, the City Attorney said the protest petitions received on February 6, 1990 were valid and constituted forty-two percent (42%) of the property owners directly opposite the subject site extending 100' from the frontage on Bear Creek Road.

Mr. Stevens said he had reviewed the protest petitions and disagreed with the City Attorney that the protest petition is valid. He asked for a different ruling.

Mr. Gwen Radeker, Associate Attorney for Jack Stevens, said he had calculated the percentages of the protest petitions and less than fifteen percent (15%) of the property owners surrounding the entire tract proposed to be rezoned had signed the petition. He presented a map to show his calculations. He also argued that the petitions were not timely filed under the ordinance. He said Section 30-11-3 states that no protest petition shall be valid unless it is received by the City Clerk in time to allow at least two normal working days prior to the public hearing on the amendment so as to allow the municipal personnel to check the accuracy and sufficiency of the petition. He said the protest petitions were not received by the City Clerk until the day before the commencement of the hearing. He presented an "Objection to protest petitions filed in connection with proposed amendment of Ordinance No. 211, as amended" which stated the basis for the protest petitions not being valid.

Jim Price, of Wyatt Development Company, spoke in support of the rezoning. He said if the rezoning is approved his company proposes to invest $30 - $35 million in Asheville. He said this is an opportunity, through rezoning, to make a marketable difference for the City of Asheville.

Bob Yeager, School Road, spokesman for the area residents, said the property owners met the deadlines for filing the protest petitions and acted in good faith in presenting them. He said the proposed development could be put in a commercial area rather than a residential area.

Tom Bell, Attorney for the area property owners, said in his opinion the protest petitions are valid. He said one might consider this rezoning as spot zoning since it is in the middle of a large tract of residential property. He said the increase in traffic would be a major problem. He said the rezoning is against downtown development and in violation of the 2010 comprehensive plan.

Julia Cogburn, Director of Planning, said the 2010 comprehensive plan clearly designates this property as residential property. She said in adopting the 2010 plan Council noted that the 2010 plan would be considered during rezoning issues.

Mayor Michalove said members of Council have three (3) options: 1) rezone the property from R-3 Residential District to CH Commercial Highway; 2) send the rezoning request back to the Planning and Zoning Commission for further review; or 3) accept the recommendation of the Planning and Zoning Commission and deny the rezoning request.

Vice-Mayor Moore moved to accept the recommendation of the Planning and Zoning Commission to deny the rezoning request. This motion was seconded by Councilman Frank.

Councilman Price said it was her hope that Council would come to a unanimous decision in order not to get caught up with legal issues.

Councilman Ellison said even though the 2010 plan is only a guide it should not be ignored. He said a commitment has been made to revitilize downtown and that should not be ignored. He said he had carefully reviewed the pros and the cons of the rezoning issue.

Councilman Estes said the growth on Highway 191 will cause increased traffic.

Councilman Frank said the integrity of the City is dependent upon the integrity of the neighborhood.

Mayor Michalove said the area in question is not in the City and if it was not in the extraterritorial

area Council would not be considering the rezoning. He said the traffic in the Malvern Hills and Shelborne Road area needs to be considered regardless of the rezoning. He said the issue before Council is strictly whether the property should be R-3 Residential District or Commercial Highway and not the proposed development.

On a voice vote Vice-Mayor Moore's motion to deny the rezoning carried unanimously.

B. Report on Sign Permit Fees.

The City Manager said several weeks ago Council received a request to review the sign permit fees. He said in reviewing the sign permit fees it was determined that administratively it is impossible to base the sign permit fee on the cost of the sign since there is no way to verify the cost of a sign. He said in order to obtain full cost recovery the sign permit fees should be $2.00 per square foot. However, it was decided to charge a fee of $1.50 and to monitor the fees from time to time. He presented a summary report from the Planning Director along with a report that showed the fees charged by other cities.

The City Manager recommended that the fee schedule be changed to calculate the fee based on one side of the sign - sign structure - rather than the square footage of the sign faces. He said this would probably be more fair and equitable.

After discussion, Councilman Estes moved to accept the recommendation of the City Manager to base the sign permit fee on the sign structure rather than the square footage of the sign faces. This motion was seconded by Councilman Price and carried unanimously.

IV. NEW BUSINESS:

A. Ordinance No. 1826 - Budget amendment to appropriate funds for Affordable Homeownership Program.

Mayor Michalove said the appropriation will provide $82,624 of CDBG funds for Mountain Housing Opportunities, Inc. to establish an affordable homeownership program. The program will assist low income families in first time homeownership.

Marvin Vierra, Director of Community Development, explained the history and purpose of the Homeownership Program.

Cindy Weaks, with Mountain Housing Opportunities, Inc., explained the details of the Affordable Homeownership Program. She said Mountain Housing Opportunities, Inc. is a non-profit housing corporation that repairs and rehabilitates houses for low income and elderly families. She said the program develops homeownership opportunities for first time homeowners. She said this program will not conflict with the Neighborhood Housing Services in the Montford area.

Councilman Ellison moved for the adoption of Ordinance No. 1826. This motion was seconded by Councilman Frank.

On a roll call vote of 7-0, Ordinance No. 1826 passed on first and final reading.

Ordinance Book No. 12 - Page 82

B. Resolution No. 90-19 - Resolution authorizing execution of an agreement with Mountain Housing Opportunities, Inc. for an Affordable Homeownership Program.

Mayor Michalove said the appropriation will provide $82,624 of CDBG funds for Mountain Housing Opportunities, Inc. to establish an affordable homeownership program. The program will assist low income families in first time homeownership.

Mayor Michalove said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 90-19 was unanimously adopted.

Resolution Book No. 18 - Page 79

C. Ordinance No. 1827 - Ordinance amending Section 8-2 of the Code of Ordinances of the City of Asheville (modifying Fire District 5 and deleting Districts 2, 3 and 4)

Mayor Michalove said this ordinance will modify Fire District 5; delete Fire District 2, 3 and 4 (present Fire Districts were created in 1946; this is the first in a series of proposed changes based on review of all Fire Districts)

John Rukavina, Chief of the Fire Department, said a review of all Fire Districts is currently underway and this action is the first in a series of proposed changes.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Ellison moved for the adoption of Ordinance No. 1827. This motion was seconded by Councilman Frank.

On a roll call vote of 7-0, Ordinance No. 1827 passed on first reading.

Councilman Ellison moved to suspend the rules and proceed to the second reading of Ordinance No. 1827. This motion was seconded by Vice-Mayor Moore and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1827 passed on second reading.

Councilman Ellison moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1827. This motion was seconded by Vice-Mayor Moore.

Councilman Price said she felt Council should wait on the third reading until next week in case any one would like to address the ordinance.

Councilman Ellison and Vice-Mayor Moore withdrew their motion to suspend the rules and proceed to the third reading of the ordinance.

D. Ordinance No. 1828 - Budget amendment for Walton Street Pool improvements.

Mayor Michalove said this amendment is to request additional funding necessary to complete renovations to the Walton Street Pool and park area.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

On a roll call vote of 7-0, Ordinance No. 1828 passed on first and final reading.

Ordinance Book 12 - Page 84

E. Ordinance No. 1829 - Budget amendment for Streets and Sidewalk Bond Project Contract No. 7.

Mayor Michalove said the low bid for Contract 7 and Alternates submitted by APAC Carolina, Inc. in the amount of $1,314,218.00 will require sale of bonds to obtain funding necessary to execute the contract and get the work underway. This budget amendment will accomplish this.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

On a roll call vote of 7-0, Ordinance No. 1829 passed on first and final reading.

Ordinance Book 12 - Page 85

V. CONSENT:

A. Resolution No. 90-20 - Resolution authorizing the Mayor to execute a Municipal Agreement with the North Carolina Department of Transportation for the installation of railroad crossing signals on Crayton Road at the Southern Railway.

SUMMARY: This action will authorize the North Carolina Department of Transportation to proceed with the planning, design and installation of railroad crossing signals on Crayton Road.

Resolution Book No. 18 - Page 80

B. Resolution No. 90-21 - Resolution awarding Street and Sidewalk Improvements Contract No. 7 to APAC Carolina, Inc., and authorizing the City Manager to execute on behalf of the City of Asheville the contract and any change orders within the budgeted amount with APAC Carolina, Inc.

SUMMARY: APAC Carolina, Inc. was lowest responsible bidder on Street and Sidewalk Improvements Contract No. 7 including Alternates. The bids have been tabulated and reviewed by Vaughn & Melton, Consulting Engineers and found to be in order. The recommendation of the Engineers and Public Works Department is that the contract and alternates be awarded to APAC Carolina, Inc.

Resolution Book No. 18 - Page 81

C. Bids for pistols for the Police Department.

SUMMARY: Award to low bidder meeting specifications, Maryland Gun Works, Hyattstown, Maryland, for 93 "Sig Sauer" Model P220 .45 caliber pistols at $458.00 each = $42,594. and 114 seven round magazines at $25.00 each = $2,850. less trade-in for 94 used S & W revolvers at $135.00 each - <$12,555> for a total net bid of $32,889.

D. Resolution No. 90-22 - Resolution appointing member to the Asheville Transit Authority.

SUMMARY: This resolution will appoint David K. Fort as a member of the Asheville Transit Authority.

Resolution Book No. 18 - Page 82

Upon motion of Vice-Mayor Moore, seconded by Councilman Frank, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

A. Group Development Actions by the Planning and Zoning Commission

Gerald Green, from the Planning Department, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. The action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. The following action was taken by the Planning and Zoning Commission at their meeting on February 7, 1990.

Belvedere Phase II - Beaverdam Road

The Asheville Planning and Zoning Commission on February 7, 1990 reviewed and approved the site plan of the Belvedere Phase II - Beaverdam Road subject to the following contingencies: 1) Approval of an erosion control plan by the Planning Department prior to soil disturbance; 2) Corrections to the existing storm drainage system in Phase I prior to the issuance of Certificates of Occupancy for units in Phase II. These improvements shall include removal of speed breakers and installation of trench drains; and c) the Planning Department provide notice to property owners in Phase I and Phase II that fire prevention vehicles may have difficulty accessing the site during inclement weather.

After a brief discussion, Councilman Price moved to schedule a public hearing relative to the Belvedere Phase II - Beaverdam Road Project for March 6, 1990. This motion was seconded by Councilman Frank and carried unanimously.

Park Avenue - Phase II

The Asheville Planning and Zoning Commission on February 7, 1990 reviewed and recommended denial of the site plan for Park Avenue - Phase II.

Council accepted the recommendation of the Planning and Zoning Commission by taking no action.

CLAIMS - DORIS ROGERS (WATER) - CHASTAIN REAL ESTATE COMPANY (WATER) - BELINDA CROOKS (WATER) - DAN DONNELLY (SEWER) - ANNA WATLEY (SEWER) - WINKY MEADOWS (WATER) - MARTHA LAKENAN (SEWER) - FRANCINE COSTA (PARKS) - MARGARET WIMBERLY (WATER) - DANNY YATES (WATER) - JULIUS WILSON (SEWER) - BILL RHODES (WATER) - RICHARD GLASS (STREETS)

The City Manager presented claims received from Doris Rogers, Chastain Real Estate Company, Belinda Crooks, Dan Donnelly, Anna Watley, Winky Meadows, Martha Lakenan, Francine Costa, Margaret Wimberly, Danny Yates, Julius Wilson, Bill Rhodes, and Richard Glass.

Mayor Michalove referred the claims to the City Attorney for investigation and recommendation.

RALPH BISHOP - LOTTERY SALES IN THE CITY

Ralph Bishop spoke to members of Council relative to lottery sales in the City of Asheville.

VII. ADJOURNMENT

Mayor Michalove adjourned the meeting at 6:00 p.m.

C. M. Michalove
MAYOR

William F. Walcott III
CITY CLERK

Tuesday - February 27, 1990 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Wilhelmina Bratton (However, Councilman Bratton voted on the Chestnut/Liberty Historic District matter by speaker telephone)

INVOCATION

The invocation was given by Councilman Ellison.

APPROVAL OF MINUTES

Mayor Michalove announced that approval of the minutes of the February 20, 1990 meeting is being withheld until next week.

I. PROCLAMATIONS:

B. Resolution No. 90-24 - Resolution recognizing recent retiree, Dillard Searsey.

Mayor Michalove read the resolution which stated that Dillard Searsey retired as Firefighter III in the Asheville Fire Department effective December, 1989 and this resolution recognizes him for his years of service to the City.

Upon motion of Councilman Ellison, seconded by Councilman Price, Resolution No. 90-24 was unanimously adopted.

Resolution Book 18 - Page 84

C. Resolution No. 90-25 - Resolution of the Council of the City of Asheville, North Carolina extending an invitation to the City of Ordzhonikidze, Russia, to become a Sister City and inviting the people of Ordzhonikidze, Russia to participate in the program.

Kitty Boneski presented members of Council with literature about Ordzhonikidze, Russia. She said Sister

Cities International is helping with the Sister City connection. She said a group of Ashevillians will be traveling to Ordzhonikidze, Russia in September.

Laurie Masterson shared the itinerary for the trip to Ordzhonikidze, Russia in September, 1990.

Mayor Michalove read the resolution.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 90-25 was unanimously adopted.

Resolution Book 18 - Page 85

II. PUBLIC HEARINGS:

A. Appeal of James F. S. Whitworth from the decision of the Disability Review Board for Asheville Police Officers and Firefighters.

SUMMARY: James F. S. Whitworth has appealed the decision of the Disability Review Board for Asheville Police Officers and Firefighters.

*** Mayor Michalove said this appeal is being postponed for two weeks at the petitioners request.

III. OLD BUSINESS:

A. Ordinance No. 1824 - Second reading of an ordinance rezoning property located on Piedmont Avenue - Thompson.

Mayor Michalove said the Asheville Planning and Zoning Commission on January 3, 1990, reviewed and recommended approval of rezoning Ward 9, Sheet 6, Lots 41 from R-3 Residential District to CH Commercial Highway. This ordinance was read on first reading on February 20, 1990.

Mayor Michalove said this ordinance was previously read on first reading and would not be reread in its entirety.

On a roll call vote of 6-0, Ordinance No. 1824 passed on second reading.

B. Ordinance No. 1825 - Second reading of an ordinance rezoning property located on Haywood Road - Smith.

Mayor Michalove said the Asheville Planning and Zoning Commission on January 3, 1990, reviewed and recommended approval of rezoning Ward 6, Sheet 9, Lots 19-3/4 and 20 from R-3 Residential District to CS Commercial Service. This ordinance was read on first reading on February 20, 1990.

Mayor Michalove said this ordinance was previously read on first reading and would not be reread in its entirety.

On a roll call vote of 6-0, Ordinance No. 1825 passed on second reading.

C. **Ordinance No. 1827 - Third reading of an ordinance amending Section 8-2 of the Code of Ordinances of the City of Asheville (modifying Fire District 5 and deleting District 2, 3 and 4)**

Mayor Michalove said this ordinance will modify Fire District 5; delete Fire District 2, 3, and 4 (present Fire Districts were created in 1946; this is the first in a series of proposed changes based on review of all Fire Districts. This ordinance was read on first and second readings on February 20, 1990.

Mayor Michalove said this ordinance was previously read on first and second reading and would not be reread in its entirety.

On a roll call vote of 6-0, Ordinance No. 1827 passed on third reading.

Ordinance Book No. 12 - Page 83

IV. NEW BUSINESS:

A. **Ordinance No. 1830 - Budget amendment to closeout East End/Valley Street Neighborhood Improvement Project.**

Mayor Michalove said the budget amendment will provide $415 to cover the cost overrun in the East End/Valley Street Neighborhood project. The amendment will also appropriate $25,000 for a property management account for management cost of property owned by the Housing Authority.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Estes moved for the adoption of Ordinance No. 1830. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1830 passed on first and final reading.

Ordinance Book 12 - Page 86

B. **Ordinance No. 1831 - Ordinance amending Section 25-16 of the Code of Ordinances of the City of Asheville (Parade Permits).**

The City Manager said at a recent City Council meeting, an anti-abortion group made a presentation regarding recommended changes in the parade permit ordinance. The Police Department and the City Attorney have reviewed this ordinance and recommend the amendment in order to address two of the concerns raised by that group. The other changes requested by the group were not included in the ordinance amendment as drafted.

The City Attorney said the ordinance amendment addresses the size of signs that can be carried and allows handles on the signs as requested by the group. He said the ordinance does not address the waiving of the permit fee, changing of amount of notice required, or the 15 foot spacing rule. He said the Chief of Police feels these provisions are necessary.

Meredith Hunt, 209 Riddle Road, Swannanoa, representing the Pro-Life Organization said he felt a 6 foot spacing rule would be less restrictive and the 72 hours advance notice requirement is an infringement on free speech rights. He said he would also like justification for a $10.00 permit fee.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Vice-Mayor Moore moved for the adoption of Ordinance No. 1831. This motion was seconded by Councilman Ellison.

On a roll call vote of 6-0, Ordinance No. 1831 passed on first reading.

C. **Ordinance No. 1832 - Budget amendment to appropriate funds for the Rental Rehabilitation Program.**

The City Manager said the City has received funding approval of $147,000 from HUD through the Rental Rehabilitation Program. The Budget Ordinance will appropriate the funds into the City Budget. The program is subcontracted with the Housing Authority for administration.

Ralph Bishop requested a copy of the ordinance. The City Manager furnished him a copy.

Councilman Frank moved for the adoption of Ordinance No. 1832. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1832 passed on first and final reading.

Ordinance Book No. 12 - Page 88

D. Resolution No. 90-26 - Resolution establishing the Downtown Loan Fund Committee.

Mayor Michalove read the resolution establishing the Downtown Loan Fund Committee and appointing Alfred J. Whitesides, Jr., Chairman; Raymond E. Daly, III, Robert D. Martel, Wanda Henry-Coleman - for two year terms and Jim F. Hughes, Brady M. Blackburn, and D. Michael Silver for one year terms.

Mayor Michalove also summarized the goals and the guidelines for the Downtown Loan Fund Committee.

Mayor Michalove said Councilman Ellison would be the Council liaison to the Committee; Leslie Anderson, Director of Downtown Development would be the staff contact; and Bill Slawter, City Attorney would provide legal advice to the Committee.

Mayor Michalove said the City is reserving the dollar amount to be allocated to the Committee until a later date. He said the City Manager will be looking at the overall goals for using Community Development Block Grant funds for the program.

Jim Barrett, Attorney with the Pisgah Legal Services, read a prepared statement stating that there is a vast need for using Community Development Block Grant funds for housing in the City of Asheville. He said Community Development Block Grant should be used for low income families.

Mr. Barrett said the Building and Housing inspectors do not follow up on their inspections of dwellings. He said if more inspectors are needed then the City should address this problem.

Councilman Frank said she would like a report on the inspectors not following up on inspections.

Mayor Michalove said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Price, seconded by Vice-Mayor Moore, Resolution No. 90-26 was unanimously adopted.

Resolution Book No. 18 - Page 86

G. **2010 Comprehensive Plan Update**

Resolution No. 90-27 - Resolution adopting a 1989 addendum to the Comprehensive Plan for the City of Asheville entitled the 2010 Asheville City Plan.

Mike Moser, Chairman of the Asheville Planning and Zoning Commission, said the 2010 Asheville City Plan provides for a review and update every two years.

He said the 2010 Update Steering Committee appointed by the Mayor in August held three public hearings in September to solicit new ideas for inclusion in the update. The Committee met weekly during the month of October and reviewed all comments, visited the French Broad Urban Riverfront and voted to recommend additions to the Plan. The report submitted to City Council by the Steering Committee recommends new objectives and strategies in the form of an addendum to the Plan Management and Implementation Chapter. Also included in the 2010 Update Report are selected demographic projections and revised maps.

Mr. Moser highlighted the recommended report.

Richard Matthews, 12 The Circle, Vice-Chairman of the Historic Resources Commission, spoke in favor of the draft report particularly the need for a study of the economic and social impact for historic districts.

June Grant agreed with Mr. Matthews to the effect that there should be a study of the economic and social impact of historic districts within the City.

Mayor Michalove said the 2010 Plan is an important document to the City of Asheville. He said it is a community guide for the City.

Mayor Michalove said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Vice-Mayor Moore, seconded by Councilman Frank, Resolution No. 90-27 was unanimously adopted.

Resolution Book No. 18 - Page 87-88

H. **Discussion relative to Globe Furniture on Broadway.**

The City Manager said negotiations on the Globe Furniture Building which would retain the facade will require $3500 in order to get a perpetual easement. The Downtown Commission feels retention of the facade is important to the downtown.

Bob Carr, Chairman of the Downtown Commission, said the Globe Furniture Building burned in December, 1986. He said at the encouragement of the Downtown Commission, negotiations have taken place with several owners since then to keep the facade intact rather than demolishing it.. He said this position was instigated by the realization that costs to demolish the facade were close to those to reinforce it. He said retention of the facade is critical to the downtown for continuity, the importance of this block of Broadway to the downtown, the possibilities of creative uses while retaining the facade, and contextual qualities of the building. He said the present owner is willing to grant the City a perpetual easement on the facade if the City will spend $3,500 for stabilizing it.

Kent Newell, Director of Historic Resources Commission, said the perpetual easement will allow the City determine the future appearance of the facade. He said the owner will receive tax credits for granting the easement.

Mr. Carr showed a video of the property in question.

Vice-Mayor Moore said in his opinion the facade is not worth saving.

After considerable discussion, Councilman Ellison moved to reconsider the action relative to the Globe Furniture Building facade until March 13, 1990. This motion was seconded by Councilman Price and carried unanimously.

I. Report on Swannanoa Interceptor

The City Manager said the City was served with a Notice of Violation from the State of North Carolina, Department of Environment, Health, and Natural Resources, relative to unpermitted Wastewater Discharges to Surface Waters -South Swannanoa Interceptor. The notice requested that the City take all reasonable and proper steps to immediately cause wastewater flows to this line to be reduced to the level that overflows cease. He said the notice stated that no new building taps or increase in volume of existing waste flows to the line are to be authorized until the matter is resolved and a replacement sewer constructed.

He said the South Swannanoa Interceptor was turned over to the Metropolitan Sewerage District under the recently adopted Consolidation Agreement.

He said the City has met with representatives of the Division of Environmental Management and the Metropolitan Sewerage District. He said tentative

approval from the Metropolitan Sewerage District has been received for the expenditure of funds to build a new interceptor and it is anticipated that the South Swannanoa Interceptor project can be completed by December, 1990.

V. CONSENT:

A. **Bids for Street Flusher and Trash Handling System.**

SUMMARY: Award to low bidder, A.E. Finley & Associates, Charlotte, N. C., for a 1990 "Etnyre" Model NS/H-2200 Flusher mounted on a 1990 "FORD" model C8000 Cab and Chassis in the amount of $60,688.00 and award to low bidder, Cavalier Equipment, Roanoke, Virginia, for a "Peterson" TL3 model TDB-18-24 Trash Handling System mounted on a 1990 GMD model C7H042 Cab and Chassis in the amount of $56,280.00.

B. **Resolution No. 90-28 - Resolution dissolving the Asheville-Buncombe Insurance Advisory Committee.**

SUMMARY: The hiring of a risk manager has eliminated the need for the Office of the Asheville-Buncombe Insurance Advisory Committee. This resolution will dissolve that Committee, effective upon the adoption of a similar resolution by the Buncombe County Board of Commissioners. The Committee will be authorized to continue to maintain its office for so long as shall be necessary in order to wind up its business affairs, not to exceed January 1, 1991.

Resolution Book No. 18 - Page 89

C. **Scheduling public hearing relative to rezoning property located on Glendale Avenue for March 13, 1990.**

SUMMARY: The Asheville Planning and Zoning Commission on February 7, 1990, voted to recommend the rezoning of Lots 16, 17, 131, 132, 247, Sheet 16, Ward 7 from R-3 Residential District to LI Light Industrial.

D. **Scheduling public hearing relative to an UMTA Grant Amendment for March 27, 1990.**

SUMMARY: This grant application amendment is for funding of the Skyland experimental transit route which occurred July 1, 1989 through December 31, 1989. The grant amendment will also include additional funding for the increased cost of the 504 Handicapped Program.

Upon motion of Vice-Mayor Moore, seconded by Councilman Ellison, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

A. Recycling Document

The City Manager advised that the Recycling Document will be presented at the Vance School Auditorium, at 7:00 p.m. on March 6, 1990. He said the Pack Library and Quality Forward have a copy of the document and notices are being placed at all the centers.

B. Sanitation Routes

The City Manager announced that sanitation routes are being changed and that notices are being posted on door knobs to this effect.

C. Report - Sign Survey Update

The City Manager reported that the Sign Survey is on schedule with the North section being completed on February 6, 1990 and the East and South section completed on February 9, 1990.

D. Decision - Chestnut/Liberty Historic District Appeal

Councilman Bratton joined the Council meeting discussion via conference telephone.

Mayor Michalove said the Court of Appeals recently decided that the Chestnut/Liberty Historic District is not a valid historic district. He said this decision took effect on February 26, 1990. He said the residents of the Chestnut/Liberty Historic District had requested a joint venture with the City to appeal this decision. He said the City Attorney filed a "Petition for Writ of Supersedeas under Rule 23 and Motion for Temporary Stay" on February 26, 1990 to avoid the possibility of anyone coming in for a building permit prior to a decision being made whether or not to appeal the Court of Appeals decision. He said Council now needs to decide whether or not to proceed with the neighborhood to appeal the decision.

Several members of Council noted that this action was not on whether or not there should be a Chestnut/Liberty Street Historic District but only whether to appeal the Court of Appeals decision.

Vice-Mayor Moore moved to discontinue any legal actions or appeals to the Supreme Court relative to the

Chestnut/Liberty Street Historic District. This motion was seconded by Councilman Bratton and carried unanimously.

Upon inquiry of Albert Sneed, Attorney for Mr. Unruh, the City Attorney said the Supreme Court would be notified of Council's action.

Jean Warner presented several letters appealing that the Chestnut/Liberty Street Historic District be reestablished.

Dorothy Arrowood, 126 Vance Crescent Street, thanked members of Council for their action on the Chestnut/Liberty Street Historic District.

E. Claims - Claude Pitts (Water) - Bonita Shipley (Water) - Mitchell Stevens (Water) - William McGehee (Water) - Tom Tarrant (Streets)

The City Manager said claims were received from Claude Pitts, Bonita Shipley, Mitchell Stevens, William MeGehee, and Tom Tarrant.

Mayor Michalove referred the claims to the City Attorney for investigation and recommendation.

F. Ralph Bishop - Rights to Seek Redress from Council

Ralph Bishop spoke to members of Council relative to his right to seek redress from members of Council.

VII. ADJOURNMENT

Mayor Michalove adjourned the meeting at 6:35 p.m.

Wm. Michalove
MAYOR

William F. Wolcott Jr.
CITY CLERK

Tuesday - March 6, 1990 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Wilhelmina Bratton, Mary Lloyd Frank, Norma T. Price, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Reverend James F. Wills.

APPROVAL OF MINUTES

Mayor Michalove announced approval of the minutes of the February 20, 1990 and February 27, 1990 meetings as submitted.

I. PROCLAMATIONS:

A. Resolution No. 90-29 - Resolution recognizing recent retiree, Caroline Martin

Harold Huff introduced Caroline Martin, Customer Service Representative, who retired effective February 1, 1990. He said Ms. Martin was retiring after 22 years of service to the City of Asheville. He said Ms. Martin had consistently been complemented by the citizens of Asheville for her kindness to them and her willingness to go the extra mile in serving them.

Mayor Michalove read the resolution and presented the resolution to Ms. Martin thanking her for her service to the City of Asheville.

Upon motion of Councilman Ellison, seconded by Vice Mayor Moore, Resolution No. 90-29 was unanimously adopted.

B. Proclamation proclaiming April 22, 1990 as "Earth" Day and April 16 - 22, 1990 as "Earth" Week.

Mayor Michalove read a proclamation proclaiming April 22, 1990, as "Earth Day" and April 16-22, 1990, as "Earth Week". He presented the proclamation to Hara Sidnick.

C. Presentation of "Recycling Achievement Award" by Altrusa International, Inc.

Barbara Ann Hughes, President of Altrusa International, Inc., presented a "Recycling Achievement Award" to the Asheville City Council for their outstanding contributions to recycling and their efforts to protect and preserve the beauty of our earth.

Ms. Hughes said Altrusa International, Inc. is an international association of business executives and professionals who volunteer their energies and expertise in projects dedicated to community betterment. She recognized Julia Cogburn, Planning Director, as an active member of the association.

Mayor Michalove accepted the award on behalf of the City Council.

ANNOUNCEMENT - MAYOR MICHALOVE - RECYCLING MEETING

Mayor Michalove announced there would be a special meeting tonight at 7:00 P.M. at Vance School relative to Recycling. He invited the public to attend the meeting. He said a presentation would be made on the "Recycling Goals and Objectives for the City of Asheville" prepared by Hazen and Sawyer, P.C., and that the City Council would receive comments from the public relative to the report and recycling.

II. PUBLIC HEARINGS:

A. Public hearing relative to Group Development for Belvedere II Project.

Mayor Michalove opened the public hearing at 4:25 p.m.

The City Clerk presented the notice to the public and the affidavit of publication.

Gerald Green, Senior Planner, said the Asheville Planning and Zoning Commission reviewed the request of Ralph Kiger of Condominium Builders, Inc. on February 7, 1990, for Phase II of the Belvedere Project to be located on Beaver Ridge Road. He said the development consists of 6.33 acres and is zoned R-2. He said adjacent property is zoned R-1 and R-2. He said Phase II of this project will consist of 17 single-family dwellings. He said water and sewer services are available, but that the Fire Department has indicated concern that they might not be able to provide fire protection services during severe weather due to the steep grades and sharp curves. In addition, he said several property owners had voiced concern about storm drainage problems from Phase I of the project and also grading required for Phase II. He said 95 percent of the grading had been completed for Phase II, and the area has been seeded to prevent erosion.

Mr. Green said the Commission had addressed the above concerns by approving the site plan subject to the following contingencies:

(a) Approval of an erosion control plan by the Planning and Zoning Commission prior to soil disturbance;

(b) Corrections to the existing storm drainage system in Phase I prior to the issuance of Certificates of Occupancy for units in Phase II. These improvements shall include removal of speed breakers and installation of trench drains; and

(c) The Planning Department provide notice to property owners in Phase I and Phase II that fire prevention vehicles may have difficulty accessing the site during inclement weather.

Mr. Green said the letter or notice to property owners of Phase I and Phase II relative to fire protection could possibly open up questions of liability and therefore the matter should be addressed at the public hearing.

Mr. Green answered questions from members of Council relative to grades, trench drains, and fire protection for the project. Mr. Green advised Council that the Planning Department is working on standards for developing on steep properties.

Mr. Louis Fogg of the Timbers Condominiums voiced concern about the steep bank located behind 4 of the units. He said that he could see nothing that will assure people that the hill will not be partially scalped.

Mr. Jack Baber, Chairman of Architectural Committee of the Timbers Condominiums, requested that his Committee be given the opportunity to review the final grading and erosion control plans for the project when they are submitted by the developer.

Mr. Clark Walker, 2602 Timber Trail, said it is hard to know how the drainage is going to be without a topographical view showing how the homes will be situated. He said there is presently two large gullies within the property line of the Belvedere project.

Ralph Keiger of Condominium Builders, Inc. with the current zoning, he could have developed 24 additional units in Phase II, but that he had reduced the density to 17 units. He said none of the Belvedere homeowners have objected to the plans for Phase II and that very little earth moving is left to be done. He said they have no intention of digging into the bank.

By use of a map, Mr. Green answered questions from Mrs. Sarah Brig, 2701 Timber Trail, about the type of dwellings shown.

Mayor Michalove closed the public hearing at 4:51 p.m.

Vice Mayor Moore moved that the Council go into executive session to discuss legal questions relative to the project. This motion was seconded by Councilman Frank and carried unanimously.

Mayor Michalove called the meeting back to order at 5:05 p.m.

Councilman Ellison moved to approve the variances for Phase II of the Belvedere Project with the deletion of Item C of the Planning and Zoning recommendations. Councilman Price seconded this motion and with Councilman Ellison's consent added that the motion include a provision that a committee be established to communicate with the neighborhood, including the Timbers Condominiums Association, to resolve complaints associated with the project and also to keep them informed of issues concerning the project. This motion passed on a 4-3 vote with Vice Mayor Moore and Councilmen Frank and Bratton voting "no".

Vice Mayor Moore, Councilmen Frank and Bratton said they felt they could not support the project because they felt a personal responsibility in approving development of residential units when the Fire Department is uncertain they can provide adequate fire protection.

III. OLD BUSINESS:

A. Ordinance No. 1824 - Third reading of an ordinance rezoning property located on Piedmont Avenue - Thompson.

Mayor Michalove said the Asheville Planning and Zoning Commission on January 3, 1990, reviewed and recommended approval of rezoning Ward 9, Sheet 6, Lots 41 from R-3 Residential District to CH Commercial Highway. He said this ordinance was read on first reading on February 20, 1990 and on second reading on February 27, 1990.

Mayor Michalove said this ordinance has been read and would not be reread in its entirety.

On a roll call vote of 7-0, Ordinance No. 1824 passed on third and final reading.

Ordinance Book 12, Page 80

B. Ordinance No. 1825 - Third reading of an ordinance rezoning property located on Haywood Road - Smith.

Mayor Michalove said the Asheville Planning and Zoning Commission on January 3, 1990, reviewed and recommended approval of rezoning Ward 6, Sheet 9, Lots 19-3/4 and 20 from R-3 Residential District to CS Commercial Service. He said this ordinance was read on first reading on February 20, 1990 and on second reading on February 27, 1990.

Mayor Michalove said this ordinance has been previously read and would not be reread in its entirety.

On a roll call vote of 7-0, Ordinance No. 1825 passed on third and final reading.

Ordinance Book 12, Page 81

C. Ordinance No. 1831 - Second reading of an ordinance amending Section 25-16 of the Code of Ordinances of the City of Asheville (Parade Permits).

Mayor Michalove said at a recent City Council meeting, an anti-abortion group made a presentation regarding recommended changes in the parade permit ordinance. He said the Police Department and the City Attorney have reviewed this ordinance and recommend the attached amendment in order to address two of the concerns raised by that group. He said the other changes requested by the group were not included in the ordinance amendment as drafted. This ordinance was read on first reading on February 27, 1990.

Mayor Michalove said this ordinance has been previously read and would not be reread in its entirety.

On a roll call vote of 7-0, Ordinance No. 1831 passed on second reading.

John Ponti, Project Manager of the Animal Rights Coalition, voiced opposition to the ordinance stating that the some sections are in direct conflict with First Amendment Rights under the Constitution. He said the the City had denied a American Civil Liberties Union's request for a permit for the purpose of protesting the Ringling Bros. Circus. He also questioned the City's ability to limit protests to daylight hours only.

Mr. Robert Brown of Fairview, North Carolina, asked several questions relative to the fee required for the permit, what they pay for, and what happens if a person or group can't pay the fee. The City Manager explained that the fees were to cover administrative costs and that a permit could not be issued without the fee since the fee is required by ordinance.

IV. NEW BUSINESS:

A. Ordinance No. 1833 - Budget amendment to appropriate funds for the Asheville-Buncombe Community Christian Ministry Shelter Program.

Mayor Michalove said Community Development Block Grant funds in the amount of $85,000 will be appropriated for renovation to the ABCCM shelter on Coxe Avenue. He said the renovation on the front one-third of the building will enable the facility to provide improved daytime shelter activities. He said an agreement will be executed with ABCCM to administer the project.

Mayor Michalove said there was concern on the part of the City Council that the program fits into Community Development Objectives in relationship to the things the City told the Federal Government it would do. He said some of the newer members of Council may need to review the Community Development Program in order to see the allocations made to different programs.

Reverend Scott Rogers, speaking on behalf of the Asheville-Buncombe County Christian Ministry, said due to lack of funds, renovations to their building on Coxe Avenue had stopped in October of 1989. He said lack of funds had also suspended renovations to the building, some of the daytime activities, staffing for daytime programs, and completion of the facility. He said $25,000 had been raised to hire staff for the daytime program. He said several daytime services were in place, but that the program itself is under-utilized due of renovations needed to make the facility usable. In addition, he said, landscaping needs to be done around the building, proper drainage needs to be added, and a severe water problem corrected on the north side of the building. He said the requested funds will enable the Asheville-Buncombe County Christian Ministry to do a proper job in providing improved daytime services to the homeless.

The Council discussed issues relative to the relationship of the ABCCM to the BEACON and other programs serving the homeless, the number of homeless being served, the possibility of the ABCCM jeopardizing their funding base by seeking funds from a governmental agency, and the possibility of the agencies getting together and routing their requests for funding in a coordinated effort to the City Council.

Marvin Vierra, Community Development Director, said he had received a letter from HUD saying the program was eligible for CDBG funding.

Mayor Michalove said the City's current CDBG entitlement is $1,037,000. He said the City had already programmed $500,000 to the Downtown Loan Fund, $100,000 to the Shelter Program, and $80,000 to Housing Projects. He said this leaves approximately $800,000. He said he is not sure this type program fits with what the City told HUD they were going to do with the funds when they made application for the funds.

Mr. Vierra said the overall program is consistent with the emphasis on housing this year as shown in our Statement of Objectives. He said, however, Program Income comes into the city over a period of years and comes from the sale of land. He said it would be necessary to amend our application to show HUD that we are using those funds. He said the City would not have Program Income on an ongoing basis, and that he didn't foresee having these type of funds to use anymore. He said the City is not under any deadline to spend these funds, but that he would advise not waiting much longer to appropriate the Program Income

In response to Councilman Frank, Reverend Rogers said the ABCCM has 6 months of funding available for daytime program, but that the requested funding does have a serious impact on the number of daytime services provided and that safety is also a major issue.

Mayor Michalove said copies of the ordinance were previously distributed to Council Members, and the ordinance would not be read in its entirety.

Councilman Price moved for the adoption of Ordinance No. 1833. This motion was seconded by Councilman Frank.

Councilman Bratton made a substitute motion to delay the decision for one week so staff could prepare a report on the funds appropriate from CDBG funds. This motion died for lack of a second.

On a roll call vote of 7-0, Ordinance No. 1833 passed on first and final reading.

Ordinance Book 12, Page 89

B. Resolution No. 90-30 - Resolution approving execution of a Community Development Block Grant Agreement with Asheville-Buncombe Community Christian Ministry for renovation of the ABCCM Shelter.

Mayor Michalove Community Development Block Grant funds in the amount of $85,000 will be appropriated for renovation to the ABCCM shelter on Coxe Avenue. He said the renovation on the front one-third of the building will enable the facility to provide improved daytime shelter activities. An agreement will be executed with ABCCM to administer the project.

Mayor Michalove said this resolution was previously distributed to members of Council and would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Ellison, seconded by Councilman Bratton, Resolution No. 90-30 was unanimously adopted.

Resolution Book No. 18, Page 91

C. Public Hearing Scheduled - Resolution adopting Minority and Women Business Procurement Plan.

Mayor Michalove said upon the advice of the City Attorney a public hearing will be scheduled relative to the adoption of the Minority and Women Business Procurement Plan.

Councilman Price moved to schedule a public hearing relative to the Minority and Women Business Procurement Plan for March 27, 1990. This motion was seconded by Councilman Frank and carried unanimously.

D. Ordinance No. 1835 - Budget amendment for Motor Transport Service Station Expansion

Mayor Michalove said this ordinance will record the appropriation fund balance to acquire Snow property for Motor Transport Service Station.

Mayor Michalove said copies of this ordinance was previously distributed to members of Council and would not be read in its entirety unless there was a specific request to do so.

Councilman Price moved for the adoption of Ordinance No. 1835. This motion was seconded by Vice Mayor Moore.

On a roll call vote of 7-0, Ordinance No. 1835 passed on first and final reading.

Ordinance Book 12, Page 93

E. Ordinance No. 1836 - Budget amendment to revise the Festival Fund.

Mayor Michalove said due to increased activity from Bele Chere '89 and Light Up Your Holidays revenues and expenditures exceeded estimates. He said this action reflects this adjustment and adjusts line items as needed.

Mayor Michalove said copies of this ordinance was previously distributed to members of Council and would not be read in its entirety unless there was a specific request to do so.

Councilman Ellison moved for the adoption of Ordinance No. 1836. This motion was seconded by Vice Mayor Moore.

On a roll call vote of 7-0, Ordinance No. 1836 passed on first and final reading.

Ordinance Book 12, Page 94

F. **Sale of Disposal Parcel 142 in East End/Valley Street Community Improvement Program.**

Mayor Michalove said the Housing Authority has tentatively accepted the following bid for Disposal Parcel 142 in the East End/Valley Street Community Improvement Program in the amount $4,901.00 to Bruce C. White. He said Parcel 142 is to be developed with a single family home under the Incentive Housing Program. Mayor Michalove said this property is located on Short Jordan Street.

Councilman Estes moved to approve the sale of Disposal Parcel 142 in the East End/Valley Street Community Improvement Program for $4,901.00. This motion was seconded by Vice Mayor Moore and carried unanimously.

V. CONSENT:

Mayor Michalove said Item B, Resolution to appoint member to the Western North Carolina Air Pollution Board, had been deleted from the Consent Agenda and would be considered at next week's meeting so that staff could obtain information relative to attendance.

A. **Resolution directing the City Clerk to investigate the validity of a petition for annexation.**

SUMMARY: G.S. 160A-58.1 as amended, requires the City Council to instruct the City Clerk to investigate the validity of a petition for a noncontiguous annexation. The property is located on U.S. 25 (Hendersonville Road) and is owned by R.L. Jordan Oil Company of North Carolina, Inc.

C. **Resolution No. 90-32 - Resolution appointing members to the Downtown Commission.**

SUMMARY: This resolution will appoint Wilhelmina Bratton and Mary Lloyd Frank as members of the Asheville Downtown Commission.

Resolution Book No. 18, Page 93

D. **Resolution No. 90-33 - Resolution directing the City Clerk to advertise an offer of purchase for upset bids regarding property on Ivanhoe Avenue.**

SUMMARY: The City owns a vacant lot on Ivanhoe Avenue adjacent to the home of Margaret Heissenberg. Mrs. Heissenberg has made an offer to purchase the property for its appraised value of $3,250. The City has no anticipated use for the property. Before the sale can be authorized, a notice of the offer must be published in the newspaper. This resolution will direct the City Clerk to publish the required notice. Assuming there is no upset bid, a subsequent resolution will authorize the Mayor to execute a deed of conveyance.

Resolution Book No. 18, Page 94

Upon motion of Vice Mayor Moore, seconded by Councilman Ellison, the Consent Agenda was unanimously adopted.

VI. OTHER BUSINESS:

CLAIMS - GREGORY ROBINSON (WATER)

The City Manager presented claims received from Rita Wright (Sanitation), McDonald's (Police), Southern Bell (Sewer) and Mrs. John Lanning (Sewer).

Mayor Michalove said this claim has been referred to the to the City Attorney for investigation and recommendation.

LAWSUITS - THE EDUCATION CENTER, INC. D/B/A RICHMOND HILL INN AND CONFERENCE CENTER VS CITY OF ASHEVILLE (APPEAL FROM BOARD OF ADJUSTMENT - PAUL DAVID JUNKYARD)

The City Manager said the City had been served with a lawsuit initiated by The Education Center, Inc. d/b/a Richmond Hill Inn and Conference Center relative to the Appeal from the Board of Adjustment decision regarding the Paul Davis Junkyard.

Mayor Michalove referred the lawsuit to the City Attorney for appropriate legal action.

FOREST LAKE SUBDIVISION - REQUEST BY JOE ENDERLE

At the request of Joe Enderle of Jensen Engineering, Council agreed to schedule consideration of the variances for the Forest Lake Subdivision under the "Old Business" section of the agenda on March 13, 1990.

REQUEST TO SELECT AUDITOR - REPORT BY CITY MANAGER

The City Manager said staff has recommended that the Council not reappoint current auditor, Ernst & Young, to perform the audit work for the City. He said this recommendation is based on the following reasons:

1. The company promised that a partner would be assigned to the audit team, and this has not been done. He said the contract called for at least 140 hours of on-site work by a partner or manager.

2. Much of the statement preparation work which should have been done by the auditors has actually been done by City staff.

3. One of the partners, Arthur Young, who prepared and presented the proposal, was transferred to another office and the City was not advised of this change. Furthermore, he said, Mr. Young was not licensed to practice in North Carolina, and the audit contract was rejected by the Local Government Commission.

4. The final "camera ready" audit report that was due October 31, 1989 was late and not received by the City until December 21, 1989, and draft reports were substandard.

Vice Mayor Moore moved to authorize the City Manager to begin the process to select a new audit firm. This motion was seconded by Councilman Frank and carried unanimously.

COUNCILMAN BRATTON - WEST ASHEVILLE COMMUNITY MEETING

Councilman Bratton said because she was scheduled to go out of town tonight, she would not be able to attend the Community Meeting at Vance School in West Asheville. She asked Mayor Michalove to announce the reason for her absence.

STATEMENT BY COUNCILMAN BRATTON - UPCOMING APPOINTMENT TO ASHEVILLE REGIONAL AIRPORT AUTHORITY

Referring to an earlier discussion in the Pre-Council work session, Councilman Bratton said she had nominated and lobbied for Dr. Otis B. Michael's appointment to the Asheville Regional Airport Authority in order to get a more diverse representation on the community on the Airport Authority. She said she felt Dr. Michael was well qualified to fill the vacancy because he has lived in Asheville since his birth, he is a former member of City Council, he is a pilot and uses the Airport regularly. She said she felt he had earned the right to serve on the Authority.

Councilman Bratton said she just wants to make sure that we have diverse representation on the Airport Authority, and that she is convinced that will come about. Above all, she said, it was her hope to work in a unified way to provide the kind of progressive leadership that is going to move all of Asheville forward, but with special emphasis on the black community.

Councilman Frank said the Council had considered two well-qualified black people for this appointment and three well-qualified people as a whole.

RESOLUTION NO. 90-43 - APPOINT MEMBER TO THE TOURISM DEVELOPMENT AUTHORITY

Mayor Michalove said three individuals were being considered for appointment to the Tourism Development Authority - Don Tomlinson of Quality Inn, who lives inside the City; Kurt Eckel of Holiday Inn, who lives outside the City but within 1 mile of the city limits; and John Winkenwerder of Ramada Inn, who lives inside the City. Mayor Michalove said all of these individuals had indicated an interest in serving on the Authority.

Councilman Ellison moved to appoint John Winkenwerder to fill the unexpired term of Charles Clamurro, term expiring August 30, 1991, on the Tourism Development Authority. This motion was seconded by Vice Mayor Moore and carried unanimously.

Resolution Book No. 18, Page 105

SHEILA BLACK - REQUEST TO BAN SMOKING IN GROCERY STORES

Sheila Black appeared before City Council to request that they ban smoking in grocery stores. This said smokers infringe on the health, welfare and safety of other citizens. She said she had also been a witness to a small, barefoot child stepping on a cigarette that had not been extinguished properly. She said this situation was not only dangerous, but also was a potential fire hazard.

Councilman Frank said she had indicated an interest in "no smoking" in restaurants and extending what is currently in effect in the City Hall Building to other places and had assumed that someone on staff was working on this.

Mayor Michalove told Ms. Black that the Council would look into this matter and be back in touch with her.

RALPH BISHOP - INQUIRY OF COUNCILMAN ELLISON

Ralph Bishop asked Councilman Ellison several questions relative to his constitution right to seek redress, minutes of City Council Meetings, and the Police Department.

VII. ADJOURNMENT

Mayor Michalove adjourned the meeting at 6:30 P.M.

William F. Walsh
City Clerk

M. M. Michalove
Mayor

Tuesday - March 13, 1990 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Mayor Michalove.

APPROVAL OF THE MINUTES

Mayor Michalove said approval of the minutes of the March 6, 1990 meeting would be postponed until March 20, 1990.

I. PROCLAMATIONS:

A. Resolution No. 90-34 - Resolution recognizing recent retiree, Charles Wilson.

Police Chief Gerald Beavers introduced retiring employee, Charles Wilson.

Mayor Michalove read the resolution. He said Charles Wilson had retired effective February 1, 1990, and this resolution is given in appreciation to Mr. Wilson for his 13 years of service to the City of Asheville. Mayor Michalove presented the resolution to Charles Wilson.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 90-34 was unanimously adopted.

Resolution Book 18, Page 95

B. Proclamation proclaiming March 12-18, 1990 as "Hi Neighbor Volleyball" week.

Mayor Michalove said this year's 13th annual Hi Neighbor Volleyball Tournament is sponsored by the City Parks and Recreation Department and the Asheville Volleyball Club will be held March 17 and 18, 1990.

Mayor Michalove read the proclamation and presented it to Donny Luke of the Asheville Volleyball Club.

Donny Luke thanked Ray Kisiah and Jeff Joyce for all of their hard work on this year's tournament. He said 240 teams from 25 eastern states and 9 United States Volleyball Association regions, will be competing. He said some teams had to be turned away simply because of the number of people required to run the tournament.

Jeff Joyce of the Parks and Recreation Department said this tournament has surpassed the nationals in attendance. He said the tournament has a tremendous economic impact on the City of Asheville. He said the Great Smokies Hilton is serving as tournament headquarters, and that it and several other motels are already full. He invited the Mayor and Council Members to attend Sunday's games and be available to present trophies to the winning teams.

C. Proclamation proclaiming the year 1990 as "The Year of The Airborne".

Mayor Michalove said an estimated 50,000 people will gather in Washington, D. C. July 4-8, 1990, to celebrate the 50th Anniversary of the Airborne. Veterans who served with the 11th, 15th, 17th, 82nd and 101st Airborne Divisions in addition to the 187th, 503rd, 508th, RTCs, 173rd Airborne Brigade, Airborne Rangers, Marine Corps Recon, Navy Seals, Air Force Rescue, and Troopers from the 82nd Airborne Division will participate in a mammoth parade.

Mayor Michalove said a memorial service to honor those troopers who fell in combat will be held followed by a masting of the colors. The Smithsonian Museum will have a special Airborne display.

Mayor Michalove read the proclamation and presented it to Colonel Charles A. Riley of the Appalachian Chapter of the 82nd Airborne Division Association.

II. PUBLIC HEARINGS:

A. Public hearing relative to rezoning property on Glendale Avenue from R-3 Residential District to LI Light Industrial District.

Mayor Michalove opened the public hearing at 4:20 P.M.

Mayor Michalove noted an error had been made in the publication of the legal notice. He said the public hearing would be continued to allow time for a correct notice to be published.

Councilman Frank moved to continue the public hearing relative to rezoning property on Glendale Avenue to March 27, 1990. This motion was Councilman Ellison and carried unanimously.

STAFF RECOGNITION - ROBIN WESTBROOK, PUBLIC INFORMATION OFFICER, AND PEGGY GARDNER

City Manager Doug Bean said Robin Westbrook, Public Information Officer, and Peggy Gardner, Graphics Artist, had received awards from the Public Relations Association of Western North Carolina. He said they had received two awards - first place winners in the Internal Publications category and second place winners in the External Publications category.

Robin Westbrook said she and Peggy Gardner had worked about a year and a half on the quantity and quality of things to be submitted. She said this is the first competition they have entered, but hopefully it would not be the last.

III. OLD BUSINESS:

A. Third reading of an ordinance amending Section 25-16 of the Code of Ordinances of the City of Asheville (Parade Permits).

Mayor Michalove said at a recent City Council meting, an anti-abortion group made a presentation regarding recommended changes in the parade permit ordinance. He said the Police Department and the City Attorney have reviewed this ordinance and recommend the attached amendment in order to address two of the concerns raised by that group. Other changes requested by the group, he said, were not included in the ordinance amendment. Mayor Michalove said this ordinance passed on first reading on February 27th and on second reading on March 6th.

Mayor Michalove said this ordinance was previously read and will not be reread in its entirety.

Upon inquiry of Councilman Price, City Attorney William F. Slawter said the ordinance presently before Council does include the changes relative to standard size for placards and allows handles.

John Ponti, Project Manager of the Animal Rights Coalition, voiced opposition to the ordinance stating that the sections relative to times of day for protests and charges for permits limit and violate 1st Amendment Rights under the United States Constitution. He said he intended to take the matter before a Federal Judge for an Injunctive Ruling and that he also intends to contact the Civil Liberties Union.

On a roll call vote of 7-0, Ordinance No. 1831 passed on third and final reading.

Ordinance Book 12, Page 87

B. Motion approving variances for the Forest Lake Subdivision.

Mayor Michalove said the developers of the Forest Lake Subdivision have requested approval of variances for reduced cul-de-sac right-of-way radius and street grades exceeding 12%.

Gerald Green of the Planning Department said the Asheville Planning and Zoning Commission on February 14, 1990, reviewed and recommended approval of the preliminary plat for the Forest Lake Subdivision subject to the following contingencies:

(1) Approval by City Council of a variance to permit a right-of-way radius of 45' at the end of the cul-de-sac;

(2) Approval by City Council of a variance to permit sections of the street to have grades of 13.78%, 14%, 17%, and 18%; and

(3) Approval of an erosion control plan by the Planning Department prior to soil disturbance.

Mr. Green said the developer of the subdivision is Harrell and Butler, Inc., and the architect is Joe Enderle, Jensen Engineering. He said the subdivision is situated on 49 acres, is zoned R-3 Residential District, and will consist of 135 lots which are approximately 1/4 of an acre.

Mr. Green said Section 26.33 requires a 50 foot radius for cul-de-sacs, and the developer is requesting a variance to a 45 foot radius in order to produce adequate size lots. He said the Planning and Zoning Commission and the Planning staff have no objections to this request.

Mr. Green said the requested street grade variances due to the hilly topography of the area. Mr. Green said the Planning Department had received a memo from Mike Jones of the Fire Department relative to their ability to provide fire protection service in severe weather when grades exceed 12%. For this reason, Mr. Green said the Planning staff recommends denial of the request for variance of grades. Mr. Green said the specific grades requested are as follows and pointed them out on a map:

15.99% Grade - Approximately 400 Feet
17% Grade - Approximately 150 Feet
17% Grade - Approximately 150 Feet
13% Grade - Approximately 50 Feet

There was a lengthy discussion among Council relative to grades and the fact that owners know the steepness of the grades when buying such property, the possibility of requiring the installation of sprinklers.

Mr. Ron Butler passed out copies of the master plan for the subdivision for Council to review. He said only 5 lots are within the City limits and all of these lots are situated on a slightly less than 10% grade. However, he said all of the subdivision is located within the 1-mile perimeter of the City of Asheville, but would be served by the Skyland Fire District.

Upon inquiry of Councilman Price, Mr. Harrell said he did not have a letter from the Skyland Fire District relative to fire protection for the lots located on the steeper grades.

Councilman Estes voiced concern about the grades causing problems when considering annexation and said this is something that needs to be addressed.

Upon inquiry of Councilman Price and Vice Mayor Moore, Mr. Enderle said it is not unreasonable to install sprinklers in the units. He said the estimated cost of installation would be approximately $1,500 to $2,000 per unit or $1 per square foot.

Mr. Enderle advised Councilman Bratton that the developer and himself had been made aware of the variances that City Council would be considering and had been in contact with the Planning staff.

Councilman Ellison said the City should look at acquiring 4-wheel drive fire trucks for use in providing fire protection in the City's mountainous terrain. He said when people buy a home and decide to live up on the mountain they realize the grades and this should not be a basis for Council turning down the project.

Fire Chief John Rukavina said the City has a couple of 4-wheel drive fire trucks, but questioned whether or not they would be able to make an 18% grade in bad weather. He said if the truck has a difficult time doing this in good weather and cited the Highland Gate subdivision as an example. He said staff is currently conducting a study relative to the use of 4-wheel fire trucks, but that it would take time and money to provide a 4-wheel truck at each station. Chief Rukavina said there had been two incidents where fires trucks couldn't make the grades - fires on Norwood and Ascension Drive. Fortunately, he said, there was no loss of life at either of these fires.

Responding to Mayor Michalove, Mr. Green said the reason the issue of the grades is coming up more frequently is because most of the level land has been used up and developers are forced to use mountainous terrain. Therefore, he said, the Fire Department and staff is becoming more and more concerned about providing city services such as garbage collection, fire protection and other city services to these areas. He said staff is preparing a study relative to grades and will be forwarding this information to City Council in the near future.

Councilman Ellison suggested inserting language on the deeds of those properties exceeding a 12% grade as a method to give notice to prospective buyers.

City Attorney William F. Slawter said City Council could require a statement on the final subdivision plat stating that specific lots would require sprinklers for fire protection.

Councilman Ellison moved to approve the variances for the Forest Lake Subdivision as recommended by the Planning and Zoning Commission. This motion was seconded by Councilman Bratton.

Councilman Frank made a substitute motion to approve the variances proposed by the Planning and Zoning Commission for the Forest Lake Subdivision with the exception that any homes affected by variances would be identified in the final plat and that those homes be required to have NFPA 13D Standard Sprinklers installed. This motion was seconded by Vice Mayor Moore. The substitute motion failed on a vote of 3-4 with Vice Mayor Moore and Councilmen Frank and Price voting "yes",

The original motion passed on a vote of 5-2 with Vice Mayor Moore and Councilmen Frank voting "no".

C. Ordinance No. 1834 - Ordinance amending Chapter 5 (Animals and Fowls) of the Code of Ordinances of the City of Asheville.

Mayor Michalove said Section 5-9 of Article III of Ordinance 1481 was very vague. He said there were no limits to the number of animals which could be kept, there were no definitions of items, the power to give a permit was solely with the Animal Control Officer, and there was no appeal process.

Mayor Michalove said this ordinance was discussed by the Council and public comments were taken at the January 30th meeting. However, he said, no action was taken by the City Council.

Mayor Michalove said this ordinance was previously presented to members of City Council and will not be read in its entirety.

City Attorney William F. Slawter said the primary focus of the amendment before Council was to empower the City Manager or his designee (and not the Animal Control Officer) to issue permits, that permits be required for 6 or more animals, that permits not exceed 6 months, and that chickens and fowl, regarless of the number, must be kept in an enclosure.

Mr. William Darden said he would like to be assured that when a complaint has been made against someone that all of the information is made available to the person. For the record, he said he had been inspected 97 times and only one (1) time was he given advance notice.

City Attorney William F. Slawter said the evidence against anyone relative to a complaint would be public record and the law would permit access to the information on the complaint. Mr. Darden requested that person making the final decision be required to inspect the premise he/she is making a decision about.

Upon inquiry of Councilman Ellison, Mr. Slawter said a letter would be mailed by the City notifying the holder of the permit that a complaint had been received and scheduling a hearing prior to any revocation of a permit. He said the effective date of the revocation would be the date the hearing is held and a determination made.

Mr. John Robinson of Springside Drive said his lot is adjacent to Mr. Darden's property. He said he had filed a number of complaints about odor and the large number of animals being kept by Mr. Darden on less than one-half acre of a lot. He said he and other residents of Springside Drive feel the number of animals permitted should be determined upon the lot size and the distance between houses. He also questioned whether or not Section D of the proposed ordinance relative to the definition of "premise" includes a person's house and whether or not the inspector has the right to go into the house. He said surprise, "no notice" inspections should be required.

City Attorney William F. Slawter said the application for a permit contains a consent statement giving the animal control officer permission to come onto premises to make inspections. He said applicants must sign this consent prior to a permit being issued. In addition, he said "premise" as referred to in the ordinance refers to where the animals are kept.

3-13-90

It was the consensus of City Council to request that staff prepare a future report regarding an amendment to the ordinance providing for increased setbacks as the number of animals increase.

Councilman Ellison moved for the adoption of Ordinance No. 1834. This motion was seconded by Vice Mayor Moore.

On a roll call vote of 7-0, Ordinance No. 1834 passed on first reading.

Councilman Bratton moved to suspend the rules and proceed to the second reading of Ordinance No. 1834. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1834 passed on second reading.

D. **Discussion relative to Globe Furniture on Broadway.**

Mayor Michalove said after a fire which destroyed the Globe Furniture building, the building was demolished except for the facade. He said negotiations have taken place with the current owner to obtain an easement to insure the facade will be retained. In exchange for this easement, Mayor Michalove said the owner requires that the City pay for the stabilization costs. He said the retention of the facade would assist in salvaging some of the urban character on Broadway, and that the preliminary estimate obtained from an engineering firm to stabilize the facade is $3,500.

Councilman Bratton moved to authorize the City Manager to negotiate an easement with the property owner and that staff come back to City Council with the budget amendment to authorize the stabilization work. This motion was seconded by Councilman Price and passed on a voice vote of 5-2 with Councilman Estes and Vice Mayor Moore voting "no".

Mr. Bob Carr, representing the Downtown Commission, said the property owner has continually caused delays in negotiations relative to the facade. He said some of the new members of City Council may not be informed to the degree that would permit them to respond in a well-informed manner to the decision made by the Downtown Commission. He said the Downtown Commission is fortunate to have had the leadership of key principals. He said the downtown is vital to the community, and that the City will received a return on its investment.

Councilman Ellison said the fact that he raised questions doesn't mean that he is uninformed and the fact that he may disagree doesn't make him less informed or less intelligent. He said any decision he makes will not be predicated by actions of previous Councils.

Councilman Estes said the building on Broadway is an eyesore. He said he would like to see it replaced by a new building and not a 1920 facade. He said whatever vote he makes will represent all the people of Asheville not just one segment of Asheville.

Roger McGuire, Pack Place Education, Arts and Science Center, thanked Council for their vote. He said the Downtown Department, Downtown Commission, Downtown Association, Streetscape Task Force, Preservation Society of Asheville and Buncombe County, American Institute of Architects, and other organization and neighbors have gone on record in support of maintaining the facade. He said saving the building is much like saving money for the future.

Wayne Caldwell said his interest in saving the facade is because his business is located directly across the street. He passed out drawings by Architect Jim Samsel showing what the facade could look like with a new infill building and parking at the rear, with the facade being stabilized with alley and accessible parking behind it, and with the facade demolished and the area used as a parking lot. He said he felt it would be better to maintain the facade and not use the area as a parking lot.

E. **Resolution No. 90-35 - Resolution fixing date of public hearing on the question of annexation of property located on U. S. 25 pursuant to N. C. Gen. Stat. Sec. 160A-58.2.**

City Manager Douglas O. Bean said a petition for the annexation of a noncontiguous parcel of property has been received by the City Clerk and certified as valid. He said this resolution will schedule public hearing on the question of the annexation for March 27, 1990. At that time, he said a report will be presented describing how the areas proposed for annexation meets all the standards set forth in 160A-58.1(b).

Mayor Michalove said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Vice Mayor Moore, Resolution No. 90-35 was unanimously adopted.

Resolution Book 18, Page 96

IV. NEW BUSINESS:

V. CONSENT:

At the request of Councilman Bratton, Mayor Michalove said Item D would be deleted from the Consent Agenda and considered separately.

A. Resolution No. 90-36 - Resolution authorizing the Purchasing Director to dispose of approximately 600 tons of waste asphalt by sealed bid.

SUMMARY; The Public Works Department has declared as surplus, approximately 600 tons of waste asphalt located at Deaverview Park in West Asheville. The Director of Public Works has requested that this asphalt be removed/disposed of - should produce an estimated $2,400.00 in revenues.

Resolution Book 18, Page 97

B. Resolution No. 90-37 - Resolution authorizing the Purchasing Director to dispose of approximately 20 tons of scrap metal by sealed bid.

SUMMARY: The City of Asheville Water Maintenance Division has accumulated approximately 230 tone of scrap metals consisting of approximately 8 tons of fire hydrants, 10 tons of cast iron, and 2 tons of brass. The Utility Director has requested that the City dispose of these metals - should produce an estimated $1,000.00 in revenues.

Resolution Book 18, Page 98 and 99

C. Resolution No. 90-38 - Resolution to waive bid deposit requirement for formal bids on purchase contracts less than $100,000.

SUMMARY: N. C. General Statute Section 143-129 has been amended to waive bid deposit requirements for formal bids on apparatus, supplies, materials or equipment when such purchase contracts are less than $100,000. This waiver to be applicable to purchase contracts only, not for bids on construction and repair contracts. This waiver will benefit the City by reducing the cost of goods purchased; encourage more small and minority business participation in City bids; stimulate the competitive bidding process, and reduce the cost incurred by bidders in submitting bids to the City. Other N. C. cities that have waived the bid deposit are Charlotte, Durham, Greensboro, Raleigh, and Winston-Salem.

Resolution Book 18, Page 100

E. **Resolution No. 90-39 - Resolution appointing member to the Western North Carolina Air Pollution Board.**

SUMMARY: This resolution will reappoint Mrs. Shirley Turner as a member of the Western North Carolina Air Pollution Control Board for a 6 year term, term expiring March 20, 1996, or until her successor is duly appointed and qualified.

Resolution Book 18, Page 101

Councilman Price moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Bratton and carried unanimously.

D. **Resolution No. 90-40 - Resolution appointing member to the Asheville Regional Airport Authority.**

Mayor Michalove said William G. Moore has resigned as a member of the Asheville Regional Airport Authority. He said City Council had identified three individuals that they felt would have the credentials to serve on the Airport Authority - Joe Eblen, Dr. Otis Michael, and Ivor Barrett. He said the Council had interviewed these individuals last week. He said at that time, it appeared that Mr. Ivor Barrett had a majority vote.

Councilman Bratton nominated Dr. Otis B. Michael, pilot and former member of City Council, to serve the unexpired term of Mr. Moore.

Mayor Michalove asked for a show of hands in favor or appointing Ivor Barrett to serve the unexpired term of Mr. Moore.

On a vote of 5-2, Ivor Barrett was appointed to fill the unexpired term of William G. Moore, term expiring June 30, 1990, or until his successor is duly appointed and qualified. Councilman Bratton and Frank voted "no".

Councilman Price moved that the City request the County to amend the ordinance establishing the Asheville Regional Airport Authority to provide that the member of the State Aviation Commission from this area serve as an ex officio member of the Authority with full voting rights. This motion was seconded by Councilman Bratton and carried unanimously.

Mayor Michalove announced that he would contact the County about this matter.

VI. OTHER BUSINESS:

Group Development Action by the Planning and Zoning Commission

Gerald Green of the Planning Department said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. The action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. The following action was taken by the Planning and Zoning Commission at their meeting on March 7, 1990:

A. Mini-Storage Buildings at 1897 Hendersonville Road

Mr. Green said the Asheville Planning and Zoning Commission on March 7, 1990, reviewed and approved the site plan for the proposed mini-storage buildings to be located at 1897 Hendersonville Road as presented. He said the project consists of one- and two-story, self-service storage facility buildings and retail space being slab on grade with masonry walls on lower levels and metal frame and stucco finish on upper levels. He said the retail building will be 13,600 square feet and sic (6) self-service, storage units that would range in size from 2200 square feet to 6300 square feet. He said the Planning and Zoning Commission recommended approval with no contingencies. However, he said, staff recommended approval contingent upon (1) compliance with erosion control; (2) driveway permit from the N. C. Department of Transportation, and (3) a sprinkler system as recommended by the Asheville Fire Department.

City Council accepted the recommendation of the Planning and Zoning Commission by taking no action.

CLAIMS - RITA WRIGHT (SANITATION) - MCDONALD' S (POLICE) - SOUTHERN BELL (SEWER) AND MRS. JOHN LANNING (SEWER)

The City Manager presented claims received from Rita Wright (Sanitation), McDonald's (Police), Southern Bell (Sewer) and Mrs. John Lanning (Sewer).

Mayor Michalove referred the claims to the City Attorney for investigation and recommendation.

STAFF RECOGNITION - JIM EWING, DIRECTOR OF PUBLIC WORKS

City Manager Doug Bean said he thought the City Council would be interested in knowing that Jim Ewing, Director of Public Works, was not only successful in convincing the American Public Works Association to bring their Pavement Management Conference here, but that he is also teaching a course at the conference for the next three (3) days.

REPORT BY CITY ATTORNEY - DISPOSITION ON CASES BEFORE THE NORTH CAROLINA SUPREME COURT

(1) Chestnut-Liberty Historic District - The North Carolina Supreme Court entered an order to dismiss the City's appeal and denied the petition of intervening neighbors to appeal, thus invalidating the historic district.

(2) Transfer of Assets from Police Pension Fund to LGERS - The North Carolina Supreme Court refused to hear the appeal of the four (4) police officers challenging the transfer of pension funds into the LGERS, thus upholding the City's transfer of those assets to LGERS.

RALPH BISHOP

Mr. Bishop said he would like to get some legal answers from the City Attorney.

Mayor Michalove told Mr. Bishop that the City Attorney works for the City of Asheville and that it would be necessary for him to get his own attorney.

Mr. Bishop cited several statutes relative to meetings being open, records are to be available for public inspection, that the City Clerk is to keep full and accurate minutes of the proceedings of City Council, and that certified copies are to furnished at a cost to be determined reasonable by the local governing board.

VII. ADJOURNMENT

Mayor Michalove adjourned the meeting at 6:35 p.m.

William F. Makepeace
City Clerk

H. M. Michalove
Mayor

Tuesday - March 20, 1990 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Vice-Mayor William G. Moore

INVOCATION

The invocation was given by Councilman Bratton.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the minutes of the March 13, 1990 meeting.

I. PROCLAMATIONS:

A. Resolution No. 90-41 - Resolution recognizing recent retiree, Billy Reese.

Mayor Michalove read the resolution recognizing recent retiree, Billy Reese. Billy Reese has been employed with the City of Asheville since August 1952 and was a Warden Senior in the Water Department. He retired effective January 1, 1990.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 90-41 was unanimously adopted.

Mayor Michalove presented the resolution to Billy Reese.

Resolution Book 18 - Page 103

B. Resolution No. 90-42 - Resolution commending Asheville High School for its participation in the international exchange program and recognizing the foreign exchange students and teacher from Japan.

Mayor Michalove read the resolution stating that in order to develop better international understanding and to promote the exchange of ideas and customs between American and foreign high school students, the Council of International Reduction and the National Association of Secondary School Principals are sponsoring a Student Exchange Program from March

12 to April 5, 1990, at which time Asheville High School is hosting foreign exchange students and one teacher from Kofu, Japan. This resolution will commend Asheville High School, the visiting students and teachers and their families, and the sponsoring organizations for their efforts toward international friendship and mutual understanding.

Upon motion of Councilman Frank, seconded by Councilman Ellison, Resolution No. 90-42 was unanimously adopted.

Jack Cole introduced the leader of the foreign high school students from Kofu, Japan. Individual welcome letters, along with a copy of the resolution, were presented to the students.

Resolution Book 18 - Page 104

C. Proclamation proclaiming the month of March, 1990 as "Mental Retardation Awareness Month".

Mayor Michalove read the proclamation stating that the purpose of this proclamation is to urge the citizens of Asheville to learn more about mental retardation and to support the special programs and services to these special citizens thereby improving their quality of life.

Mayor Michalove presented the proclamation to Roxann Rotundo.

II. PUBLIC HEARINGS:

A. Public hearing relative to the adoption of the Minority and Women Business Procurement Plan.

Mayor Michalove said the Minority and Women Business Procurement Plan includes the Policy of the City with regard to providing equal opportunity for minority and women owned business enterprises (M/WBE) in all aspects of City contracting and purchasing programs. The plan also includes goals for M/WBE participation and describes responsibilities of the City and contractors to enhance efforts to meet the goals. This public hearing was scheduled at the March 6th meeting.

Mayor Michalove opened the public hearing at 4:26 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

The City Manager said several weeks ago Council members were given the history and basic aspects of the Minority and Women Business Procurement Plan. He said the document includes provisions outlined in a recently adopted resolution establishing verifiable percentage goals for participation by minority business in the awarding of building construction contracts awarded pursuant to N.C. Gen. Stat. Sec. 143-128. He said because this document includes state statute provisions it was determined that a public hearing on the plan was needed to seek input into the plan.

He said minor changes have been made in the plan to conform with state law and he would suggest that the document be reviewed by the Minority and Women Business Committee prior to adoption by Council. He suggested that the public hearing be continued for three weeks.

Councilman Bratton requested that copies of the proposed plan be sent to the Black Business and Professional League.

Marilyn Bass, Economic Development Coordinator for the YMI, requested that Council expedite this plan as soon as possible. She said Joe Webster, with the NAACP, has also requested that Council expedite the plan and that separate goals be established for minorities and women.

Councilman Frank moved to continue the public hearing relative to the adoption of the Minority and Women Business Procurement Plan until April 10, 1990 without further advertisement. This motion was seconded by Councilman Bratton and carried unanimously.

III. OLD BUSINESS:

A. Ordinance No. 1834 - Third reading of ordinance amending Chapter 5 (Animals and Fowls) of the Code of Ordinances of the City of Asheville.

Mayor Michalove said previously, Section 5-9, Article III, of Ordinance 1481 was very vague. There were no limits to the number of animals which could be kept, there were no definitions of items, the power to give a permit was solely with the Animal Control Officer, and there was no appeal process.

Mayor Michalove said this ordinance was previously read on first and second readings and would not be reread in its entirety.

On a roll call vote of 6 - 0, Ordinance No. 1834 passed on third and final reading.

Ordinance Book 12 - Page 90-92

IV. NEW BUSINESS:

A. Motion approving final plat of the Lookout Point - Subdivision.

Gerald Green, with the Planning Department said the preliminary plat for the Lookout Point Subdivision was approved by the Asheville Planning and Zoning Commission on January 11, 1989. The subdivision consists of five (5) lots located at the end of Skylyn Court in the Richmond Hills section of Asheville and consists of 2.46 acres.

Mr. Green said the subdivision plat meets all the conditions outlined by the Planning and Zoning Commission. He said the developer will request that the Board of Adjustment approve a variance from the required 70' street frontage to 50' street frontage due to the size of the lots.

After discussion, Councilman Ellison moved to approve the final plat of the Lookout Point Subdivision as recommended by the Planning and Zoning Commission and contingent upon the Board of Adjustment approving the requested variance on street frontage. This motion was seconded by Councilman Estes and carried unanimously.

B. Motion approving variances for the Blake Mountain Estates Subdivision - Phase I.

Gerald Green, from the Planning Department, said the Asheville Planning and Zoning Commission on March 7, 1990, reviewed and approved the preliminary plat subject to the following contingencies: 1) Provide a cul-de-sac at the end of Galloway Drive; and 2) Approval by City Council of a variance to permit a grade of 13.5% on a section of Blake Wood Court and a grade of 13.029% on a section of Galloway Drive.

Mr. Green said the subdivision includes 18 lots on 13 acres and is located off Overlook Road on Westridge Road. He said approval of the variance regarding street grade will reduce the sharpness at the entrance to the subdivision and will eliminate excessive land disturbance.

During the discussion relative to street grade, the City Manager said the staff is studying levels of service on different street grades

After further discussion, Councilman Frank moved to approve the variances for the Blake Mountain Estates

Subdivision - Phase I as recommended by the Planning and Zoning Commission. This motion was seconded by Councilman Price and carried unanimously.

C. **Ordinance No. 1837 - Budget amendment to provide funding necessary for the replacement of ballfield poles at West Asheville Park.**

The City Manager said in order to have the West Asheville ballfield safe for play before the start of the Little League season in mid April, light poles need to be removed and replaced and fixtures will need to be rewired. This amendment will provide this funding.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it will not be read in its entirety.

Councilman Ellison moved for the adoption of Ordinance No. 1837. This motion was seconded by Councilman Frank.

On a roll call vote of 6-0, Ordinance No. 1837 passed on first and final reading.

Ordinance Book 12 - Page 95

D. **Ordinance No. 1838 - Ordinance amending Code of Ordinances to provide for and regulate horse drawn vehicles in the downtown area.**

Mayor Michalove said the Code as it is currently constituted does not provide for the operation of horse drawn vehicles in the city. These changes would allow this type of business.

Leslie Anderson, Director of Downtown Development, outlined the provisions of the proposed ordinance. She said Robert Fleming from Charleston, S. C. is interested in starting a new business in Asheville with horse drawn carriages. She said the Downtown Commission has endorsed the proposed business and ordinance.

Robert Fleming explained the details of his proposed business.

It was determined that the route for the carriages would be an administrative decision.

Councilman Ellison questioned whether or not there would be potential liability on the part of the City in this business.

Dee Williams, Asheville Business Development Association, said there had been some mention of the

horses being stabled on Eagle Street near the YMI Building. She said the community is concerned about this decision.

It was noted that the horses could not be stabled in the City at the present time. The Planning and Zoning Commission is considering an amendment to the Zoning Ordinance to allow horse stables in certain zoning districts within the City, however, this would be taken up by Council at a later date.

Ralph Bishop questioned whether or not the horse drawn carriages would create a traffic problem in downtown.

Mayor Michalove noted that a letter had been received from Attorney Jack Westall, on behalf of the Grove Park Inn, relative to the horse drawn carriage business proposed for downtown. He said the Legal Staff is reviewing those comments for possible inclusion in the ordinance.

John Walsh, Ivy Street, asked why trolley cars could not be pulled by the horses.

There was some indication that "carriage" should be specifically defined in the ordinance.

Councilman Bratton moved for the adoption of Ordinance No. 1838. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1838 passed on first reading.

V. CONSENT:

VI. OTHER BUSINESS:

A. COUNCIL MEETING FOR APRIL 17, 1990 - CANCELLED

Mayor Michalove announced that the meeting scheduled for April 17, 1990 would not be held since it is the Tuesday after Easter.

B. COUNCILMAN BRATTON - STATUS REPORT ON HOUSE ON WALTON STREET

Councilman Bratton requested a status report on the house on Walton Street that needs attention. She said she had received numerous calls about this property.

C. NORTH CAROLINA PLANNING ASSOCIATION AWARDS

Julia Cogburn, Director of Planning, said Asheville would be receiving three awards and the State Planning

Association meeting on April 11, 1990. She said Representative Marie Colton would be receiving one for Erosion Control and Sign Control; an Outstanding Planning Award would be received for Riverfront Planning; and the Asheville Citizen-Times would be receiving the Outstanding Journal Award.

D. RALPH BISHOP - GLOBE FURNITURE BUILDING - BROADWAY

Ralph Bishop made comments to members of Council relative to the Globe Furniture Building on Broadway.

VII. ADJOURNMENT

Mayor Michalove adjourned the meeting at 5:50 p.m.

H. M. Michalove
MAYOR

William F. Malcott
CITY CLERK

Tuesday - March 27, 1990 - 4:00 p.m.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Eugene W. Ellison and William W. Estes; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: Councilman Wilhelmina Bratton

INVOCATION

The invocation was given by Councilman Frank.

APPROVAL OF THE MINUTES

Mayor Michalove announced the approval of the minutes of the March 6, 1990, City Council meeting as well as the approval of the minutes of the March 20, 1990, City Council meeting.

I PROCLAMATIONS:

A. Proclamation proclaiming the month of April 1990 as "National Weight Loss Month."

Mayor Michalove proclaimed the month of April 1990 as "National Weight Loss Month" in the City of Asheville.

B. Proclamation proclaiming March 31, 1990, as "Multiple Sclerosis Day."

Mayor Michalove proclaimed March 31, 1990, as "Multiple Sclerosis Day" in the City of Asheville and stressed the importance of fighting this debilitating disease.

C. Proclamation proclaiming the month of April 1990 as "Symphony Month."

Mayor Michalove proclaimed the month of April 1990 as "Symphony Month" in the City of Asheville and presented the proclamation to Ms. Dot Rosenberg.

Ms. Rosenberg mentioned several opportunities for school children and others in our community to hear the North Carolina Symphony and encouraged participation by everyone.

D. Proclamation proclaiming the week of March 11 - 17, 1990, as "Girl Scout Week."

Mayor Michalove proclaimed the week of March 11-17, 1990, as "Girl Scout Week" in the City of Asheville and mentioned that the Girl Scout cookies get better every year!

II. PUBLIC HEARINGS:

A. Public hearing on the question of annexation of property located on U.S. 25 pursuant to N. C. Gen. Stat. sec. 160A-58.2 (Petition received from R. L. Jordan Oil Company).

ORDINANCE NO. 1839 - ANNEXATION OF R. L. JORDAN PROPERTY

Mayor Michalove said that a petition had been received from the R. L. Jordan Oil Company requesting annexation of a noncontiguous area located on US Highway 25 (Hendersonville Road). Mayor Michalove then opened the public hearing at 4:16 p.m.

City Clerk William F. Wolcott, Jr. presented the notice to the public setting the time and date of the public hearing and the affidavit of publication.

Senior Planner Patricia Tallerday stated that on February 14, 1990, the petition for annexation was received in the Planning Department. She stated that this area meets all the requirements of N. C. Gen. Stat. sec. 160A-58. She stated that this particular piece of property is located approximately .96 mile from the corporate limits of the City of Asheville and is approximately 1.1 miles from the Town of Fletcher. She stated that Mr. Pulliam had pictures of the property (which is a restaurant) if Council desired to see them. She said that fire protection will be provided by the Skyland Volunteer Fire Department and the City is in the processing of negotiating that agreement. The Buncombe County Sheriffs Department, along with the Asheville Police Department, will be providing the patrol and investigation services. There will be no additional costs relative to water and sewer services as the area is presently served by an 8" public water main and also a 6" public sewer line. She said that the total annual revenue from this property would be $2,059.

Councilman Ellison asked if the Planning Department had received any negative comments concerning this annexation and Ms. Tallerday stated that they had received none.

From an inquiry of Councilman Price, Ms. Tallerday stated that this property is in a future annexation plan, but is not in the current plan.

Mayor Michalove closed the public hearing at 4:21 p.m.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Frank moved for the adoption of Ordinance No. 1839. This motion was seconded by Councilman Price. On a roll call vote of 6-0, Ordinance No. 1839 passed on its first reading.

Councilman Ellison moved to suspend the rules and proceed to the second reading of Ordinance No. 1839. This motion was seconded by Vice-Mayor Moore and carried unanimously. On a roll call vote of 6-0, Ordinance No. 1839 passed on its second reading.

Councilman Price moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1839. This motion was seconded by Councilman Frank and carried unanimously. On a roll call vote of 6-0, Ordinance No. 1839 passed on its third and final reading.

Ordinance Book No. 12, Page 107 and 108

B. Resolution No. 90-44 - Resolution authorizing the City Manager to execute on behalf of the City of Asheville an agreement by and between the City of Asheville and the Skyland Volunteer Fire Department to provide fire protection service to the newly annexed noncontiguous area located on U.S. Highway 25 (R. L. Jordan Oil Company property).

City Manager Douglas O. Bean said this resolution will provide the necessary fire protection services to the property located on U.S. Highway 25 (the R. L. Jordan Oil Company property).

Mayor Michalove said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Vice Mayor Moore, seconded by Councilman Frank, Resolution No. 90-44 was unanimously adopted.

Resolution Book 18, Page 106

C. Public hearing relative to amending the Urban Mass Transportation Grant Application for 1989-90.

RESOLUTION NO. 90-45 - AMEND URBAN MASS TRANSPORTATION GRANT APPLICANTION - SKYLAND EXPERIMENTAL TRANSIT ROUTE & 504 HANDICAPPED PROGRAM

Mayor Michalove opened the public hearing at 4:24 p.m.

City Clerk William F. Wolcott, Jr. presented the notice to the public setting the time and date of the public hearing and the affidavit of publication.

City Manager Douglas O. Bean said that this grant amendment is for the funding of the Skyland experimental transit route which occurred July 1, 1989, through December 31, 1989, and also this amendment will include additional funding for the increased cost of the 504 Handicapped Program. Mr. Bean stated that the upcoming budget ordinance amendment relates to this particular item also.

Mayor Michalove said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Ellison, Resolution No. 90-45 was unanimously adopted.

Resolution Book 18, Page 107

D. ORDINANCE NO. 1840 - Continuation of a public hearing relative to the rezoning of property on Glendale Avenue from R-3 Residential District to LI Light Industrial District.

Mayor Michalove reopened the public hearing at 4:28 p.m.

City Clerk William F. Wolcott, Jr. presented the notice to the public setting the time and date of the public hearing and the affidavit of publication.

Planning Director Julia Cogburn said that a petition to rezone property located on Glendale Avenue from R-3 Residential District to HI Heavy Industrial District was received from Mr. Harold Bartlette. The Planning Staff recommended denial of the petition due to the comprehensive plan and also felt there would be an unusual configuration of the area since the owner of Lot 7 did not want a residential portion of property to be included in the petition to rezone to an industrial use. The Planning and Zoning Commission, at its February 2, 1990, meeting unanimously approved the rezoning from R-3 Residential to a LI Light Industrial District.

Upon inquiry, Mrs. Cogburn stated that an effort was made contact the owners of Lots 7 and 8 to ask them to join in the petition, but they refused to sign. Verbal opposition was expressed by the owner of Lot 7. Mr. Elbert Taylor, agent for the Bartlettes, handed out pictures of the property to members of Council.

Mr. Taylor asked that the Council consider hearing this ordinance on the second and, if possible, the third reading today since an error had been made in the publication of the legal notice and they have been trying to get this property rezoned since September 1989.

Mayor Michalove closed the public hearing at 4:38 p.m.

Upon inquiry of Councilman Price relative to this rezoning being considered spot zoning, Mrs. Cogburn stated that the Legal Division was contacted on that particular point and their opinion was that this did not constitute spot zoning.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Ellison moved for the adoption of Ordinance No. 1840. This motion was seconded by Vice-Mayor Moore. On a roll call vote of 6-0, Ordinance No. 1840 passed on its first reading.

Councilman Price stated that it is a standard not to approve rezonings on all three reading in one day and she felt that she could not vote for suspending the rules especially since there was opposition to the rezoning.

Vice-Mayor Moore moved to suspend the rules and proceed to the second reading of Ordinance No. 1840. This motion was seconded by Councilman Ellison and was defeated on a 4-2 vote, with Councilmen Frank and Price voting "no."

City Attorney William F. Slawter stated that there needed to be a 3/5's vote of all members of Council in order to suspend the rules and this would require five (5) affirmative votes; therefore, Mayor Michalove stated that the second reading of Ordinance No. 1840 would be held at next week's meeting.

III. OLD BUSINESS:

A. Ordinance No.1838 - Second reading of an ordinance regulating the operation of horse-drawn carriages in the City.

Mayor Michalove stated that the City of Asheville's Code of Ordinances does not provide for the operation of horse drawn vehicles in the City. He said that this ordinance passed on its first reading on March 20, 1990, and that the City Attorney was to address some comments and concerns that were expressed at that meeting.

Mayor Michalove stated that he had received a several letters and phone calls, in opposition to this ordinance, from humane societies and concerned citizens regarding the use of horse-drawn carriages in the City.

City Attorney Slawter stated that several changes were made in the ordinance that Council members now had which took into account the changes that the Grove Park Inn had requested. He stated that one additional street (Lynwood Road) needed to be added to the ordinance in Section 23 (A) at the request of Mr. Jack Westall, representing the Grove Park Inn.

Mr. Slawter stated that the present ordinance does not have specific design standards in it but the Charleston, South Carolina, ordinance did. He offered to give Council members copies of the Charleston ordinance and if the Council members wanted to get that specific, and that language could be added.

Mr. Slawter said that Section 26 of the ordinance had been amended to address the cleaning of the streets a concern expressed at the last Council meeting.

Councilman Price expressed her concern about the health of the animals as it related to the number of hours the horses work, the certificate of health required, rotating the animals, etc.

Councilman Ellison addressed Mr. Robert Fleming, who is interested in starting the new horse-drawn carriage business in downtown Asheville, with several questions concerning the health of the animals as it related to Councilman Price's concern and others, such as availability of water, proper rest, cool down time after each tour, the use of sick animals, etc. He said that he has received several phone calls and feels that with all the information presented at this meeting, he would need more time to make an intelligent decision concerning this matter.

Mr. Fleming stated that he intends to take the temperature of the horse after each tour, regardless of whether that specific language is in the ordinance or not. He said he is also very much concerned about the health of the horses.

Councilman Price stated that she felt Mr. Fleming would take the proper measures in the health of the animals but felt that specific language must be in the ordinance to protect the animals and the City if for some reason another person would take over the business.

Mr. Michael Rasko spoke against the use of horse-drawn carriages in the City stating that many cities have abandoned this type of business. He stated that Cam MacQueen, Coordinator

of the Coalition to Ban Carriage Horses, would be sending the Council statistics that would be very helpful in assisting them to make the correct decision - not to allow horse-drawn carriages in downtown Asheville. His concerns, among others, was the load capacity, hours, weather extremes, asphalt and accidents which can happen when the animals are startled. He felt this type of business was wrong for the downtown area.

Ms. Virginia Schmidt spoke against the use of horse-drawn carriages in the City stating that she has contacted Charleston officials and noted the problems associated with that type business there. She mentioned the hot weather making the pavement even hotter for the horses, the frustration of the slowness of the carriages on drivers in cars, the overcrowding of the carriages, the horses breathing the exhaust fumes, the diaper vs. sling, among other concerns. She stated that she was not as concerned about the Grove Park Inn business as the downtown Asheville business because the Grove Park Inn carriages stayed in wooded areas. She asked Council members to look further into this type business before voting on it for second reading.

Ms. Lynn Howard spoke against the use of horse-drawn carriages also. Her concern, among others, was the use of seat belts and the safety of the animals.

Mr. Vic Trantham, 36 Beechwood Road, spoke in favor of the horse-drawn carriage ordinance. He manages a hotel and feel that this type of business would offer the tourists a leisurely look at Asheville and feels that this would be a very good attraction for our City. He felt that Mr. Fleming would do everything necessary to protect the health of the horses.

Ms. June Grant spoke in favor of the horse-drawn carriages and felt that horses are bred to work and that the Council should work with the organizations to protect the rights of the animals.

Mr. David Weynand, President of the Asheville Downtown Association, spoke in favor of this ordinance. He felt it would be an attraction to our City and also agreed that Mr. Fleming would do everything necessary to protect the health of the horses.

Mr. Fleming stated that he would be using poly-urethane shoes on the horses to protect their hooves from the hot pavement. He intended to use head lights and tail lights, in addition to turn signals on each carriage.

Upon inquiry of Councilman Ellison, Mr. Fleming explained the diapering system v. the sling system on the horses.

Councilman Price suggested that the Council incorporate language into the ordinance about the ratio of the weight of the horses as it related to the load capacity.

An unidentified woman spoke in opposition to this ordinance stating that horses were not bred to wear poly-urethane shoes and diapers. She expressed concerns relative to the traffic in downtown area with the slow-moving carriages.

Upon inquiry of Mr. Ralph Bishop, Mr. Slawter said that anyone could have this type of business and that it was not a monopoly for Mr. Fleming. Mr. Bishop also stated that there would be a traffic problem on Wall Street.

Councilman Price felt she could not vote on the second reading of this ordinance at this time. She felt more information was needed and more changes needed to be made.

Councilman Ellison suggested that the organizations and concerned citizens opposed to this ordinance meet with City representatives to try to iron out some differences, if they can.

Councilman Frank felt that additional time was necessary in order for her to absorb this new information and felt she could not vote on the second reading at this time.

Councilman Price moved to (1) postpone the second reading of Ordinance No. 1838 for two weeks, (2) ask the City Attorney to contact cities who went out of this type of business and find out why and give a report to the Council, and (3) have the City Manager instruct the Downtown Development Department to contact concerned citizens and organizations who have expressed concern regarding this type business and iron out some concerns. This motion was seconded by Vice-Mayor Moore and carried unanimously.

IV NEW BUSINESS:

A. ORDINANCE NO. 1841 - Budget Amendment to amend the City's Asheville Transit Authority Budget to reflect an amendment to the UMTA Grant.

City Manager Bean stated that this budget amendment ordinance is related to the resolution discussed earlier in the meeting. He said this would fund the Skyland experimental transit route which occurred July 1, 1989, through December 31, 1989. He said that this budget amendment will also include additional funding for the increased cost of the 504 Handicapped Program.

Mayor Michalove said members of Council were previously furnished with copies of this ordinance and it would not be read in its entirety.

Councilman Ellison moved for the adoption of Ordinance No. 1841. This motion was seconded by Councilman Estes. On a roll call vote of 6-0, Ordinance No. 1841 passed on its first and final reading.

Ordinance Book No. 12, Page 110

B. Resolution No. 90-46 - Consideration of a resolution awarding the bid to and authorizing the City Manager to sign a contract with Buckeye Construction Company Inc. for the project known as Hansel Avenue Annexation Area Sanitary Sewer Line Improvements.

City Manager Bean stated that this resolution would authorize the City of Asheville to enter into a contract with Buckeye Construction Company Inc., as the lowest bidder, for the Hansel Avenue Annexation Area Sanitary Sewer Line improvements.

Mayor Michalove said members of Council were previously furnished with copies of this resolution and it would not be read in its entirety.

Councilman Price moved for the adoption of Resolution No. 90-46. This motion was seconded by Vice-Mayor Moore and carried unanimously.

Resolution Book No. 18, Page 108

C. Appeal of James F. S. Whitworth from the decision of the Disability Review Board for Asheville Police Officers and Firefighters.

Due to the anticipated length of this item, it has been moved to the end of this meeting.

V. OTHER BUSINESS:

A. Request from Ellis Cannady for adequate fire protection services in the Deaverview area.

Mr. Ellis Cannady, representing M.B. Haynes Corporation and others, spoke to Council about the need for adequate fire protection in the Deaverview area. He read from a letter from Assistant Fire Chief Mike Jones stating that there was not adequate fire protection in that area. He also read from a letter from the Asheville-Buncombe Water Authority which said

that in February of 1991 a new line would be installed to alleviate the inadequate fire situation. He appealed to the City Council to ask the Asheville-Buncombe Water Authority to use emergency funds to install the new line into the Deaverview area.

Mr. Ralph Gardner, President of Milkco, Inc., also urged the City Council to do whatever they could to get adequate fire protection to this area.

Mayor Michalove stated that the Council would look into this concern and let them know next week what exactly the Council can and cannot do.

B. Suzanne Lewis

Ms. Suzanne Lewis, owner of 231 Montford Avenue, introduced herself to the members of Council and invited them to come to her store and see for themselves that the business now located there is a clean and reputable business.

C. Clarence Benton

Mr. Clarence Benton urged Council members to issue the beer permit to Ms. Lewis at 231 Montford Avenue. He stated that other establishments pay approximately $100 for this permit, but due to a petition of 12-13 people opposed to this permit, Ms. Lewis will have to spend $5,000-$6,000 for this same permit. He urged the Council not to penalize Ms. Lewis because of the petition.

D. Claims

The City Manager said claims were received from Ms. Emma Curry (sewer claim), Mr. Dick Plemmons (sewer claim) and Ms. Frieda Lynch (sewer claim). He also stated that the City was served with a lawsuit on March 23, 1990, by Mr. Alan E. O'Donnell relative to an appeal from a Civil Service Board decision.

Mayor Michalove referred the claims and the lawsuit to the City Attorney for appropriate action.

E. Ralph Bishop

Mr. Ralph Bishop asked the City Manager to instruct the Chief of Police to investigate the business 704 Riverside Drive.

CONTINUATION OF NEW BUSINESS:

C. Appeal of James F. S. Whitworth from the decision of the Disability Review Board for Asheville Police Officers and Firefighters.

Mayor Michalove announced that, since he had participated in the deliberations and decision of the Disability Review Board concerning the request of Mr. Whitworth, he would ask to be excused from participation in the consideration of this matter by the City Council in order to avoid the possibility of a conflict of interest. Upon motion of Councilman Price, seconded by Councilman Ellison, the City Council voted unanimously to excuse Mayor Michalove from participation in consideration of this matter.

Mr. Whitworth was present at the City Council meeting for the presentation of his appeal, and was represented by his attorney, Gary A. Dodd. Following the presentation of testimony and other evidence on behalf of Mr. Whitworth the Council held an executive session to discuss the merits of Mr. Whitworth's claim, which executive session was called for by motion of Councilman Frank, seconded by Councilman Ellison, and adopted unanimously by the City Council. Following deliberations in executive session, the City Council returned to open session and upon a unanimous vote of 5 to 0 voted to uphold the decision of the Disability Review Board and deny the request of Mr. Whitworth. The City Council further directed the City Attorney to prepare appropriate findings of fact and conclusions of law in support of their decision for approval by the City Council at a future meeting. A copy of the transcript of proceedings is on file in the Office of the City Clerk.

VI. ADJOURNMENT

Mayor Michalove adjourned the meeting at approximately 8:00 p.m.

K.M. Michalove
MAYOR

William R. Wolcott
CITY CLERK

Tuesday - April 3, 1990 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Councilman Bratton.

APPROVAL OF MINUTES

Approval of the minutes of the March 27, 1990 meeting were postponed.

I. PROCLAMATIONS:

A. Resolution No. 90-47 - Resolution recognizing recent retiree, Robert E. Simmons.

Mayor Michalove read a resolution recognizing recent retiree, Robert Simmons who has been employed with the City of Asheville since September, 1968. He was a Police Sergeant in the Police Department and retired effective February 1, 1990.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 90-47 was unanimously adopted.

Resolution Book No. 18 - Page 109

B. Proclamation - "Community Development Week" - April 7 - 14, 1990

Mayor Michalove read the proclamation proclaiming April 7 - 14, 1990 as "Community Development Week" and presented the proclamation to Julia Cogburn, Director of Planning and Zoning.

C. Proclamation - "Occupational Therapy Month" - April 1 - 30, 1990

Mayor Michalove proclaimed April 1 - 30, 1990 as "Occupational Therapy Month" in the City of Asheville.

D. Proclamation - "Glad Bag A Thon Month" - April, 1990.

Mayor Michalove proclaimed the month of April, 1990 as "Glad Bag A Thon Month" in the City of Asheville and presented the proclamation to Carolyn Kramer with Quality Forward.

II. PUBLIC HEARINGS:

III. OLD BUSINESS:

A. Report on ABC Permit for Montford Pharmacy.

The City Manager explained the City's role in providing local government opinions on ABC permits. He said the State grants or denies ABC permits. He said the City Manager's office is the agency to submit local government opinions. He said the local ABC Board investigates the applicant and the City submits comments as it relates to zoning, building codes, and the past history of a particular location.

He said in February, 1990, the City Manager's Office received the Local Government Opinion Form in reference to the Montford Store at 231 Montford Avenue requesting a beer and wine permit. The owner of the business, a Ms. Suzanne Lewis, was contacted by phone by City staff and advised that the City Manager's office could not recommend the location due to the community concerns and based upon a police report of the entire community.

He said in the Montford Community, several attempts have been made by different individuals to obtain beer and wine permits and has been met with very strong resistance by members of the community. In July of 1989, Mr. Ronald Beck was relocating his business from the head of Montford to the pharmacy at 231 Montford, and at that time, the residents became quite alarmed. A petition was received from the residents basing their opposition on the experience at the head of Montford with loitering, littering, and civil disturbances around the Montford Grocery Store. Mr. Beck was granted a temporary beer and wine license because he had previously had one at the Montford Store. Mr. Beck eventually decided to relocate his store from the Montford community.

He said each time action has been taken copies of the correspondence was given to members of Council.

Councilman Ellison said it is his understanding that the petitions used as a basis for recommending denial were directed at another individual and should be considered "old information". He said he has no interest in

getting involved with the issuance of ABC permits but the Montford area is a sensitive area. He said information used in the local government opinions needs to be applicable. He said he was not advocating approving or disapproving the ABC permit for Montford Pharmacy.

Councilman Bratton questioned why the City Council members is involved in the recommendation for the ABC Permit for Montford Pharmacy. She said she would like from the ABC Board the actual function the City takes in issuing ABC permits.

Councilman Ellison requested that Council consider having a community meeting in the Montford area in order that the residents can voice their concerns.

Mike Plemmons, Director of Council of Independent Business Owners, requested that a better dialogue be established between the City staff and the applicant for ABC permits. He said the applicant for the ABC permit at Montford Pharmacy did not receive a copy of the City's recommendation.

STUDENT REPRESENTATIVES - INTRODUCED

Charles Penny, Assistant City Manager, introduced Judd Herron, a Junior at Asheville High School and Will Brown, also a Junior at Asheville High School. They will be the City Council student representatives for the month of April, 1990.

B. Report on water service for Deaverview Road.

The City Manager said last week several individuals expressed concern about the water service on Deaverview Road.

The City Manager recommended that the Mayor send a letter to the Chairman of the Asheville-Buncombe Water Authority stating the residents concern and a request that the proposed 16-inch diameter masterplan line be funded in next year's budget and that the Authority expedite its design and construction as quickly as possible.

Council accepted the City Manager's recommendation.

C. Discussion relative to facade easement for Globe Furniture Building on Broadway.

Mayor Michalove said after a fire which destroyed the Globe Furniture building, the building was demolished except for the facade. Negotiations have taken place

with the current owner to obtain an easement to insure the facade will be retained. In exchange for this easement the owner requires that the City pay for the stabilization costs. The retention of the facade would assist in salvaging some of the urban character on Broadway.

The City Manager said estimates for stabilization of the facade have not been received and Council would have to consider these at a later date.

The City Attorney reviewed the particulars of the facade easement.

Councilman Ellison said it is his understanding that someone is trying to buy the building north of the Globe Furniture Building on Broadway and this information would be very important in making a decision regarding the facade easement. He requested that the City Manager find out the particulars on this purchase.

D. Ordinance No. 1838 - Second reading of an ordinance relative to rezoning property on Glendale Avenue from R-3 Residential District to LI Light Industrial District.

Mayor Michalove said the Asheville Planning and Zoning Commission on February 7, 1990, voted to recommend the rezoning of Lots 16, 17, 131, 132, 247, Sheet 16, Ward 7 from R-3 Residential District to LI Light Industrial. A public hearing on this request was scheduled at the February 27, 1990 meeting. At the public hearing on March 13, 1990 the public hearing was continued until March 27, 1990. This ordinance was read on first reading on March 27, 1990.

Mayor Michalove said this ordinance was previously read on first reading and would not be reread in its entirety.

On a roll call vote of 7-0, Ordinance No. 1838 passed on second reading.

Elbert Taylor, Agent for the petitioner, requested that Council consider the third reading of the ordinance.

Councilman Ellison moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1838. This motion was seconded by Vice-Mayor Moore and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1838 passed on third and final reading.

Ordinance Book No. 12 - Page 109

IV. NEW BUSINESS:

A. Ordinance No. 1842 - Budget ordinance amendment to appropriate funds for Vance School Ballfield Improvements.

The City Manager said due to cost overruns in the construction of the toilet facility and concession at Vance School - request transfer of funds totaling $7,000 to the Vance School Ballfield Improvements.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Price moved for the adoption of Ordinance No. 1842. This motion was seconded by Councilman Frank.

On a roll call vote of 7-0, Ordinance No. 1842 passed on first and final reading.

Ordinance Book No. 12 - Page 111

B. Resolution No. 90-48 - Resolution endorsing the Asheville Urban Area Transportation Improvement Program Priority Needs List.

Mary Helen Duke, with the Land of Sky Regional Council, said the Transportation Advisory Committee (TAC) adopted the FY 1991 Priority Needs List on March 15, 1990. The list recommends a priority ranking of transportation improvement projects. Each unit of government in the Asheville Urban Area is being requested to endorse the TIP List. She reviewed the details of the Priority Needs List and answered general questions from members of Council.

After discussion, Councilman Ellison moved for the adoption of Resolution No. 90-48 with the understanding that it is Council's desire that Leicester Highway widening be a first priority after the Hendersonville Road widening. This motion was seconded by Councilman Frank and carried unanimously.

Resolution Book 18 - Page 110

C. Resolution No. 90-49 - Resolution endorsing the establishment of a Public Transportation Fund.

Mary Helen Duke said the TAC also adopted a resolution supporting the establishment of a separate state Public Transportation Fund and is seeking local government support.

Upon motion of Vice-Mayor Moore, seconded by Councilman Bratton, Resolution No. 90-49 was unanimously adopted.

Resolution Book 18 - Page 111

D. Appeal of James M. Randall from the decision of the Disability Review Board for Asheville Police Officers and Firefighters.

Mayor Michalove said James M. Randall's attorney has requested that this appeal be postponed until a later date.

V. CONSENT:

VI. OTHER BUSINESS:

A. Claims

The City Manager said claims were received from Southern Bell (water), Pearlmans (water), and USF & G (streets).

Mayor Michalove referred the claims to the City Attorney for appropriate action.

B. Meeting Scheduled

The City Manager said the Planning and Zoning Commission has scheduled a workshop on Erosion Control for May 2, 1990 at 7:00 p.m. to discuss revisions to the ordinance.

He said budget work sessions have also been scheduled for Thursday, May 3 at 4:30 p.m. and Monday, May 7, 1990.

VII. ADJOURNMENT

At the request of Mayor Michalove, Vice-Mayor Moore moved to adjourn the meeting and that Council meet in executive session to discuss a legal matter. This motion was seconded by Councilman Frank and carried unanimously.

The meeting adjourned at 6:00 p.m.

C.M. Michalove
MAYOR

William D. Wolcott
CITY CLERK

Tuesday - April 10, 1990 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Councilman Ellison.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the minutes of the April 3, 1990 meeting as submitted.

I. PROCLAMATIONS:

C. Proclamation - "Spring Cleaning Week" - April 22-28, 1990

Mayor Michalove proclaimed the week of April 22 - 28, 1990 as "Spring Cleaning Week".

D. Proclamation - "Victim Rights Week" - April 22-28, 1990

Mayor Michalove proclaimed the week of April 22 - 28, 1990 as "Victim Rights Week".

II. PUBLIC HEARINGS:

III. OLD BUSINESS:

A. Continuation of public hearing relative to Minority and Women Business Procurement Plan.

Resolution No. 90-50 - Resolution adopting Minority Business Plan

Mayor Michalove said the Minority and Women Business Procurement Plan includes the Policy of the City with regard to providing equal opportunity for minority and women owned business enterprises (M/WBE) in all aspects of City contracting and purchasing programs. The plan

also includes goals for M/WBE participation and describes responsibilities of the City and contractors to enhance efforts to meet the goals.

Mayor Michalove said this public hearing was held on March 20, 1990 and continued until April 10, 1990.

The City Manager said a number of changes have been made to the Procurement Plan since originally proposed in order to bring the plan into conformance with state law and the resolution previously adopted by Council regarding minority contractors. He said the Minority and Women Business Committee reviewed the recommended changes and recommended approval of the plan.

Councilman Bratton said she needed to leave the session but she noted that she was in favor of the Minority Business Plan and was leaving the meeting unexcused in order that her vote be counted as an "aye" vote.

Upon inquiry of Councilman Price, the City Attorney said the Plan was changed from Minority and Women Business Procurement Plan to Minority Business Plan to be consistent with state law.

Mike Plemmons, with the Central Independent Business Organization, said it was the consensus of the business groups that the plan be adopted.

Liz Dayton, representing National Women in Construction and a member of the Minority Task Force, recommended adoption of the plan. She said she felt the plan would need on-going input from individuals directly affected by the plan.

Jackie Howland, with the National Black Leaders Association, spoke in support of the plan. She said her association would be monitoring the plan.

Marilyn Bass, with the YMI Cultural Center, spoke in support of the plan and requested that the Minority Coordinator be established as soon as possible. She recommended that the Minority Coordinator be under the Community Development office.

Lennie Sitnick, 90 Gertrude Place, encouraged the hiring of the Minority Coordinator as soon as possible.

Mayor Michalove closed the public hearing at 4:24 p.m.

Mayor Michalove said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Vice-Mayor Moore, Resolution No. 90-50 was unanimously adopted.

Resolution Book No. 18 - Page 112 - 113

B. **Ordinance No. 1838 - Second reading of an ordinance regulating the operation of horse-drawn carriages in the City.**

Mayor Michalove said the Code as it is currently constituted does not provide for the operation of horse drawn vehicles in the City. These changes would allow this type of business.

The City Attorney advised that the ordinance has been revised since first reading to incorporate concerns from several groups. He said some of the changes in the ordinance include provisions for turn signals on the carriages; lights on the carriages; design standards (incorporated from the Charleston, South Carolina ordinance); temperature of the horses; ratio of weight of passengers to weight of carriage; examination by veterinarian more than once a year; manure, urine and other waste from horses; safety of the carriage; poly-urethane shoes; and the type of horses to be used.

Councilman Bratton returned to the meeting at 4:45 p.m.

The following individuals spoke in opposition to the ordinance stating concerns about traffic problems and cruelty to animals:

Jean Worth, Redwood Road
Lennie Sitnick, 90 Gertrude Place (recommended that if adopted an Advisory Board be established to help regulate)
Jill Wilson, Beaver Valley Road
Beth Bentsue, 637 Jupiter Road
Lillian Powell, 637 Jupiter Road
Teresa Wible, Beverly Road
Resident from 8 Claxton Place
Lynn Howard, 40 Baker Place, President of Friends of Animals
Dottie Goodman, 1865 Leicester Highway, representing Humane Society

Phil Snyder, representing southern section of the Humane Society of the United States
Bill McKeley, Swannanoa - representing Friends of Animals and ASPCA.
Sally Rhodes, 456 Merrimon Avenue
Tom Koun, Swannanoa - veterinarian
Roger McGuire
Cecil Blackwell
Mike Rosko
Dershie McDevitt
Phil Snyder

The following individuals spoke in favor of the ordinance:

June Grant
David Wynn
Pat McGuire
Jesse Ray Sr.
Charles Smith
Don Martell

Mr. Robert Fleming stated again that his first concern is the safety of the animals.

Councilman Ellison mentioned several concerns in the ordinance, i.e. a consistent means of taking the animal's temperature, heat, licensing with training, lights on the carriages, limitation on number of hours an animal can work, etc.

After much discussion relative to concerns the Council had in addition to the concerns that the opposition voiced, the Police Department was instructed to provide a report relative to the number of accidents involving horse-drawn carriages in other cities and the City Attorney's Office (with direction from the Downtown Development Department) was instructed to draft another revised ordinance addressing some of the concerns addressed at this meeting.

On a roll call vote of 7-0, Ordinance No. 1839 passed on its second reading.

IV. NEW BUSINESS:

A. Final plat approval of Phase I of Forest Lake Subdivision.

Verl Emrick, Executive Assistant for the Planning Department, stated that on February 14, 1990, the

Asheville Planning and Zoning Commission reviewed and approved, subject to the granting of variances for street design, the preliminary plat for Forest Lake Subdivision. He said that the 135 lot subdivision is located off Rock Hill Road. The City Council granted the requested variances on March 13, 1990. He said the developers have submitted the final plat for Phase I, containing 13 lots, to the Planning Department for review and approval. He said the final plat for Phase I of Forest Lake Subdivision complies with the City of Asheville's Subdivision Regulations and that this section of the subdivision is located outside the City limits in the City's extraterritorial jurisdiction. He stated that improvements do not have to be constructed prior to final plat approval in subdivisions located outside the City limits.

Councilman Ellison moved to approve the final plat of Phase I of Forest Lake Subdivision. This motion was seconded by Councilman Estes and carried on a 5-2 vote with Vice-Mayor Moore and Councilman Frank voting "no."

B. Resolution No. 90-51 - Resolution authorizing the Housing Authority of the City of Asheville to acquire property located near the Asheville Regional Airport.

City Manager Douglas Bean stated that the Housing Authority has requested that the City Council pass a resolution authorizing the Housing Authority to act as the agent for the City of Asheville in the acquisition of property located near the Asheville Regional Airport.

Councilman Ellison asked that the resolution be corrected to state that all expenses incurred in connection with the purchase of said property, whether by condemnation or by voluntary purchase, including the cost of the property, attorney's fees and other expenses, be paid by the Airport Authority.

Mayor Michalove said that members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Ellison, seconded by Vice-Mayor Moore, Resolution No. 90-51 was unanimously adopted with the above-noted change.

Resolution Book No. 18, Page 114.

C. **Resolution No. 90-52 - Resolution directing the City Clerk to advertise an offer to purchase for upset bids regarding property on Sunset Mountain.**

City Manager Douglas Bean stated that the City owns a strip of land on Sunset Mountain, off of Blue Briar Road. He said that adjacent property owners, Mr. and Mrs. C. Foster Aldridge, have made an offer to purchase the property in the amount of $2,000. He said that this resolution would authorized the City Clerk to advertise the offer.

Mayor Michalove said that members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Ellison, seconded by Councilman Frank, Resolution No. 90-52 was unanimously adopted.

Resolution Book No. 18, Page 115.

D. **Resolution No. 90-53 - Resolution appointing member to the Asheville Fair Housing Commission.**

City Manager Douglas Bean stated that the term of office of Glenda S. Burgin as a member of the Asheville Fair Housing Commission expired on December 31, 1989. He stated that this resolution would reappoint Ms. Bernadette Thompson as a member of the Asheville Fair Housing Commission to a three year term, term expiring December 31, 1992.

Mayor Michalove said that members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Estes, seconded by Councilman Frank, Resolution No. 90-53 was unanimously adopted.

Resolution Book No. 18, Page 116.

V. CONSENT.

None.

VI. OTHER BUSINESS.

A. Report relative to Beer and Wine Permits.

A letter was introduced from Ms. Suzanne Lewis of Route 7, Box 899, Fairview, North Carolina, dated April 5, 1990, to the City Manager stating that "I am requesting that the City Council take an official vote and withdraw its objections to my receiving a beer permit for 231 Montford Avenue from the ABC Commission. I am informed that the appeal process will cost me between $3,000 and $5,000. Since the city's objection is the only reason I have to appeal I ask for a letter to the ABC Commission in Raleigh in order to avoid my having to pay so much money for this permit that I am entitled to receive."

Mr. Charles Penny, Assistant City Manager, stated that he spoke with Doug Robinson of the ABC Commission and Mr. Robinson informed him that there is no fee to the applicant to appeal a denial to the Commission. He said that the Commission would come to the community, hold the hearing, and there would be no cost assessed to the applicant. He did say, however, the cost of appeal the denial comes into play if the applicant chooses to have legal representation in the administrative proceedings. He said the cost would basically be the legal fee that the applicant's attorney would charge them for representing them in the proceeding.

It was the consensus of the Council to have the City Manager prepare a draft procedure that the Council could look at in addition to adopting a policy relative to matters like this.

B. Resolution No. 90-54 - Resolution to continue grant appropriation for Project HAND.

Steve Evans, Administrative Assistant of the Asheville Police Department, said that Project HAND is a police and Housing Authority effort to reduce the criminal use and abuse of drugs in Asheville's public housing communities. He explained that a grant to support law enforcement drug countermeasures in Asheville's public housing communities has been submitted. He said that the grant period begins July 1, 1990, and continues through June 30, 1991. He said the Police Department started this project on November 1, 1989, with local funding and this budget amendment will establish the appropriation for the City's share.

Mayor Michalove said that members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Vice-Mayor Moore, seconded by Councilman Price, Resolution No. 90-54 was unanimously adopted.

Resolution Book No. 18, Page 117.

C. Report on Pisgah Legal Services' comments to amend the Statement of Community Development Objectives and projected use of funds.

City Manager Douglas Bean, highlighted a report dated April 9, 1990, to the comments Pisgah Legal Services made relative to the Community Development Block Grant Program. The complete report is attached hereto and made a part of the minutes.

After discussion relative to this report, it was the consensus of the Council to hold a work session relative to the Community Development Block Grant program.

D. Group Development - Turf Operations Center, Country Club of Asheville

Gerald Green of the Planning Department and the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. The action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. The following action was taken by the Planning and Zoning Commission at their meeting on April 4, 1990:

City Manager Douglas Bean stated that the Country Club of Asheville proposes to contract a 6,000 square foot building in which to house equipment and supplies used to maintain the golf course. He said that located approximately 330 feet from the existing maintenance shed, the proposed turf operations center will be accessed by an existing paved drive. The turf operations center will be buffered from residential uses on Inglewood Road by existing trees and vegetation. He said that after reviewing the site plan for the project and hearing the staff report, the Planning and Zoning Commission voted to recommend approval of the group development request.

It was the consensus of Council to accept the action of the Asheville Planning and Zoning Commission as final.

E. **Scheduling a public hearing relative to horse stables.**

Councilman Price moved to schedule public hearing on May 1, 1990, relative to an ordinance allowing horse stables in certain zoning districts. This motion was seconded by Vice-Mayor Moore and carried unanimously.

F. **Appeal of Jackie V. Babb from the decision of the Disability Review Board for the Asheville Police Officers and Firefighters.**

At the request of Gary Dodd, attorney for Mr. Babb, due to the lateness of the time, this matter was postponed, to be rescheduled at a later date.

After some discussion relative to this appeal process, the Council instructed the City Attorney to draft an ordinance amending the ordinances establishing the Disability Review Board so as to delete the City Council from the appeal process.

G. Claims

The following claims were received by the City of Asheville during the week of April 2 - 6, 1990: Thomas Gassaway (Sewer), Joseph Travaglini (Parks), and two Asheville Cablevision claims (Water).

These claims have been referred to the appropriate insurers for investigation.

H. Adjournment.

The meeting of April 10, 1990, was adjourned at 7:45 p.m.

William F. Walcott Jr.
CITY CLERK

W. M. Nicholson
MAYOR

Report on Pisgah Legal Services' Comments
To Amended Statement of Community Development
Objectives and Projected Use of Funds

April 9, 1990

Each year the City follows a Citizen Participation Plan to obtain citizen involvement in the process of developing the Statement of Objectives for the CDBG program. At least two public hearings are conducted and the proposed statement is published in the newspaper prior to submittal to HUD. The environmental review process also includes opportunity for citizens to comment on CDBG funded projects through notices published in the newspaper. The Final Statement of Objectives is submitted to HUD for review. A Grant Agreement is executed between the City and HUD to carry out the program. A Request for Release of Funds is submitted for projects requiring environmental clearance.

The projects are then carried out by the City. In most occasions the City executes a contract with a subrecipient to administer the project. The City is required to monitor performance of subrecipients just as HUD is required to monitor the City at least once each year. During each monitor visit the CDBG program is reviewed for compliance with federal regulations. The last monitor visit for the overall CDBG program occurred on May 9-12, 1989. Other monitor visits occur throughout the year to review compliance for specific areas such as Fair Housing, Labor Standards, Environmental procedures, Acquisition and Relocation, Housing Rehabilitation and UDAG activities. The next monitor visit will be in June 1990.

The federal government requires an annual audit be conducted by the City for all federal grants. The annual City audit contains a section dealing with the Single Audit provision requirements of the Office of Management and Budget Circular A-128. The audit includes a review of CDBG and UDAG activities for compliance with program regulations.

The CDBG regulations 24 CFR 570.903 require that HUD conduct an annual review of the City's performance in carrying out its approved Housing Assistance Plan (HAP) in a timely manner. The City has never failed to receive certification from HUD for not carrying out its HAP in a timely manner. The last certification was received on November 17,1989.

There were no findings with regard to the CDBG or UDAG program in the City's most recent annual audit (Exhibit 1). There are no outstanding findings by HUD on the City's CDBG or UDAG program with regard to the items mentioned by Pisgah Legal Services in its comments to the amended Statement of Objectives.

The comments submitted by Pisgah Legal Services state that the purpose of the comments are to persuade City officials and the City Council to allocate the maximum number of CDBG dollars to benefit directly low and moderate income persons. The primary government source of money to address the problem of an inadequate supply of decent affordable housing is the Community Development Block Grant program.

The conclusion is that the $500,000 proposed for the Downtown Loan Pool should be used instead for housing rehabilitation and code enforcement for rental properties. The seven items below are a summary of the major items discussed by Pisgah Legal Services:

1. The City is not meeting the housing rehabilitation goals of its Housing Assistance Plan. Pisgah Legal Services states that the City stated that it planned to assist 320 lower income households whose units need rehabilitation.

2. The City is not using "all available resources", as required by HUD to meet its housing rehabilitation goals. The regulation 24 CFR 570.306 states "Each grantee is expected to use all available resources and when needed, to take all actions within its control to implement the approved HAP."

3. The City should enforce its Housing Code with regard to rental housing. It cannot be the public policy of the City that it will not enforce its own code with regard to rental housing. The credible "stick" of code enforcement is needed to complement the "carrot" of below-market interest rate loans offered by the Housing Authority.

4. The Housing Code should be revised. Responsible code enforcement does not have to mean condemnation, demolition, or displacement. Before code enforcement is initiated, the Asheville Housing code itself needs to be revised to minimize displacement and make the code easier to understand and enforce. CDBG funds should be shifted from Planning and other activities that do not benefit lower income persons directly and allocated to increase code enforcement for rental housing in redevelopment areas.

5. City CDBG dollars need to be spent according to a comprehensive low income housing strategy to meet the objectives of the HAP. Program income from past CDBG activities needs to be allocated to creating lower income housing. A Housing Advisory Panel should be established at once and composed of low income housing experts.

6. Asheville has reported to HUD and the public inaccurately that Community Development funds benefited low and moderate income people. The $250,000 in CDBG funds for improvements to McDowell Street benefits the business interests of the specific area and larger interests of the City and not low and moderate income people.

   In September of 1986 HUD found that the "Dollar Lot" program does not appear to meet one of the National Objectives as required. It appears that some CDBG funds may have been used outside the boundaries of the redevelopment area on Alexander Drive.

7. Millions of federal dollars spent to create jobs for lower income citizens have not been demonstrated to accomplish that purpose. Only three new permanent jobs have been created for Pack Plaza. It appears that the City can not ensure even that new jobs will be created, much less new jobs for lower income people and minorities.

   The City has not documented that the Champion sewer line created the projected number of jobs for lower income people or sufficiently benefited lower income people as required by HUD regulations.

8. Both the design of the Downtown Business Loan Pool and the process by which it was developed make it difficult to believe that it will create a significant number of jobs for lower income people. Housing development loans have been added as an afterthought and are neither an integral part of the program or likely to succeed.

Response

The Community Development Block Grant program is a highly regulated Federal grant program. The regulations governing the program are contained in several Federal Registers. There are several instructional manuals and handbooks and countless notices and policies by HUD and other federal agencies that are available to guide grantees in the proper administration of the CDBG program. A thorough knowledge and understanding of the regulations and policies is necessary to administer the program. The HUD representatives also provide assistance to grantees in understanding of the regulations.

The primary objective of Title I of the Housing and Community Development Act of 1974, as amended, and of the Community Development program of each grantee under Title I is "the development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic

opportunities, principally for persons of low and moderate income." Consistent with this primary objective, not less than 60 percent of CDBG funds received by the grantee shall be used in accordance with applicable regulations for activities that benefit persons of low and moderate income.

The following is a summary response to the major items discussed by Pisgah Legal Services in its comments.

1. The comment that the City stated that it planned to assist 320 lower income households is a miss interpretation of the goals of the Housing Assistance Plan (HAP). On November 17, 1989 the HUD area office certified that the City is carrying out its HAP in a timely manner. The most recent HUD approval is contained in Exhibit 2.

2. The goals contained in the HAP relate to all federal and state housing programs available. A HUD official in the Greensboro Area Office has interpreted the requirement to use "all available resources" as meaning that the grantee must utilize non CDBG resources, if available, to meet HAP goals. If the grantee did not utilize these other resources it could affect the CDBG entitlement. (See Exhibit 3 24 CFR Part 570.903)

3. Code enforcement is eligible for CDBG funding only when used in an area receiving other public improvements and activities funded by CDBG (24 CFR Part 570.202(c)). Code enforcement would therefore be limited to the Head of Montford neighborhood. The Redevelopment Plan requires that the Citizen Advisory Committee be involved in the implementation of the plan. The Advisory Committee has not reviewed the proposal to use CDBG funds for code enforcement.

4. The suggestion to revise the Housing Code before using CDBG funds for code enforcement does merit consideration. If reallocation of the funding proposed for the downtown loan pool were delayed until after the Housing Code is revised, the CDBG requirement to carry out the program in a timely manner will be adversely impacted.

5. The suggestion to develop a comprehensive low income housing strategy and creation of a Housing Advisory Panel does merit consideration. The use of program income dollars to carry out a comprehensive low income housing strategy also merits consideration.

6. The City has not reported to HUD and the public inaccurately that Community Development funds benefited low and moderate income people. The CDBG funds used on the McDowell Street project were used for right-of-way costs and drainage improvements on Asheland Avenue, Phifer Street and Southside Avenue as part of the urban renewal plan for the East Riverside neighborhood. The CDBG funds were also used to install a sidewalk along McDowell Street. The sidewalk provides access for low income people of Lee Walker Apartments and other neighborhood residents to the medical facilities and downtown area. The cost for widening of McDowell Street itself was paid for by NC Department of Transportation. The City and Housing Authority negotiated an agreement with NCDOT to complete the neighborhood street improvements of the East Riverside Redevelopment plan as part of the McDowell Street project. (See Exhibit 4 Municipal Agreement.) The guide used most often by HUD to determine if street improvements in urban areas qualify under the CDBG program generally is that state system streets are not normally eligible. With the exception of the sidewalk, the CDBG expenditures were on City system streets. The project is located in Census Tract 9, Block Group 2, that contains 73 percent low and moderate income persons.

Alexander Drive is located entirely within Census Tract 7. The entire Census Tract qualifies as low-moderate income with 64.7 percent low and moderate income persons. Alexander Drive is located within block group 2 of Census Tract 7 which contains 63.4 percent low and moderate income persons. The improvements on Alexander Drive between Martin Luther King, Jr. Drive and Ardimon Drive were funded with $63,692 of CDBG funds. Improvements east of Ardimon Drive were not funded with CDBG. Street improvement projects are reported in the Grantee Performance Report (GPR) as area benefit activities. Exhibit 5 includes additional information about area benefit projects as well as Federal Register Part 570.208(1) that describes area benefit activities.

The HUD findings on the Dollar-A-Lot" program were cleared on March 9, 1987 (see Exhibit 6). Since the project had received HUD's National Award for Excellence in 1986 the project was revised to qualify as being eligible under the National Objective for removal of slums and blight.

7. The CDBG funds used on the Pack Plaza project met the National Objective for slums and blight removal and therefore are not subject to the CDBG jobs provision requirement. The UDAG Grant Agreement does contain "best effort" job requirements. The job requirements are to be completed within 24 months from the issuance of a certificate of occupancy for the property constituting the project. (See Exhibit 7) It is too early to judge the job requirements for the Pack Plaza project. Since UDAG job requirements differ from CDBG it would not be appropriate to compare performance between differing requirements. The information contained in the City's most recent GPR shows that 177 jobs were created for low and moderate income persons from the Champion Sewer project (Exhibit 8). The information on the Direct Benefit form in the GPR was provided by Champion Finishing Company. A more recent report from Champion Finishing indicates a hiring plan to create a total of 72 jobs. Champion Finishing has not indicated a reluctance to allow the City to review its files. The Community Development Division will monitor the project soon to verify the number of jobs created. Since the project qualifies under the job provision requirements of the CDBG regulations. There is no provision requiring the City to determine the area benefit of the project. The project will continue to be reported to HUD as a direct benefit activity as required in 24 CFR Part 570 208(a)(4), (Exhibit 9).

8. The Downtown Business Loan program was amended by the Loan Committee to allow the funds to be used for low and moderate income housing on an equal basis as all other eligible uses for the loan. Housing therefore is an integral part of the program. Low and moderate income housing would not be required to meet the job provision requirements therefore encouraging low and moderate income housing in the downtown area. The job provision requirements will be included in the promissory note for each loan. Failure to create the required jobs could be reason to call the loan due and payable. A similar loan program in the City of Charlotte has created a total of 698 jobs with the active loans on file.

Conclusion

The CDBG program has been audited many times by HUD and the City's independent auditor. There are no outstanding findings against the CDBG program on any of the comments received from Pisgah Legal Services. The CDBG funds have been used for eligible activities according to HUD regulations.

The specific areas in which to utilize CDBG funds is a policy decision and not staff responsibility.

Regular Meeting - April 17, 1990

AGENDA

The following has been set as the tentative agenda for the April 17, 1990 regular meeting of the City Council. At the conclusion of this agenda the meeting will be open for the presentation of other matters by members of Council and the public

NO MEETING DUE TO EASTER HOLIDAYS

Tuesday - April 24, 1990 - 4:00 p.m.

Regular Meeting

Present: Vice-Mayor William G. Moore, Presiding; Councilmen Wilhelmina Bratton, Mary Lloyd Frank, Eugene W. Ellison and William W. Estes; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: Mayor Kenneth M. Michalove and Councilman Norma Price

INVOCATION

The invocation was given by Councilman Frank.

APPROVAL OF THE MINUTES

Vice-Mayor Moore announced the approval of the minutes of the March 27, 1990, City Council meeting. He stated that the April 10, 1990, minutes were not available to approve.

INTRODUCTION OF STUDENT

Charles Penny, Assistant City Manager, introduced Mr. Haywood Spangler, Secretary of Exterior for UNC-Asheville for the 1990-91 school year. He said that Mr. Spangler's position is new and he will be working closely with the community and UNC-Asheville.

I. PROCLAMATIONS:

A. Proclamation proclaiming the month of April 1990 as "New Homes Month."

Vice-Mayor Moore proclaimed the month of April 1990 as "New Homes Month" in the City of Asheville and had the pleasure of presenting the proclamation to Mr. Bob Selby, President of the Home Builders of Greater Asheville, and Mr. Tom Vorys, Vice-President of the Home Builders of Greater Asheville.

B. Proclamation proclaiming the week of May 1 - 7, 1990, as "Respect for Law Week."

Vice-Mayor Moore proclaimed the week of May 1 - 7, 1990, as "Respect for Law Week" in the City of Asheville and had the pleasure of presenting the proclamation to Officer Pete Bradley of the Asheville Police Department.

Officer Bradley invited the City Council to a "Respect for Law Week" luncheon to be held on Thursday, May 3, 1990, at 12:30 p.m. at the Sheraton.

C. Proclamation proclaiming the week of April 22 - 28, 1990, as "Volunteer Week."

Vice-Mayor Moore proclaimed the week of April 22 - 28, 1990, as "Volunteer Week" in the City of Asheville and had the pleasure of presenting the proclamation to Ms. Harriette Winner, Director of Volunteer Services at the American Red Cross. Ms. Winner introduced Mr. Bruce Peterson, from the Council on Aging, and Ms. Joyce Hamilton, from Memorial Mission Hospital.

D. Proclamation proclaiming the week of April 22 - 29, 1990, as "Days of Remembrance of the Victims of the Holocaust."

Vice-Mayor Moore proclaimed the week of April 22 - 29, 1990, as "Days of Remembrance of the Victims of the Holocaust" in the City of Asheville and stated that the original proclamation had been presented on April 23, 1990, by Mayor Michalove to Rabbi Blumming at the Beth-Ha Tephilla Temple.

E. Proclamation proclaiming April 28, 1990, as "March of Dimes Walk America Day."

Vice-Mayor Moore proclaimed April 28, 1998, as "March of Dimes Walk America Day" and presented the proclamation to Ms. Donna Beck and Ms. Mary Mack from the Asheville March of Dimes.

F. Proclamation proclaiming April 24, 1990, as "General Federation of Woman's Clubs Centennial Day."

Vice-Mayor Moore proclaimed April 24, 1998, as "General Federation of Woman's Clubs Centennial Day." Vice-Mayor Moore stated that Councilman Price has been elected as President of the North Carolina General Federation of Woman's Clubs.

G. Proclamation proclaiming April 29, 1990, as "Cancer Survivors' Day."

Vice-Mayor Moore proclaimed April 29, 1998, as "Cancer Survivor's Day" and presented the proclamation to Mr. Ray Long, board member of the Life After Cancer-Pathways.

H. Resolution No. 90-55 - Resolution of appreciation to Wayne Weaver Cook.

Vice-Mayor Moore read a resolution recognizing Wayne Weaver Cook, who has been employed with the City of Asheville since July 1, 1975. He was a Plumbing Inspections Specialist in the Inspections Division and will retire on May 1, 1990.

Upon motion of Councilman Ellison, seconded by Councilman Frank, Resolution No. 90-55 was unanimously adopted.

Resolution Book No. 18 - Page 118.

III. OLD BUSINESS:

A. Report from Citizens/Police Advisory Committee

Mr. Bob York stated that the Citizens/Police Advisory Committee was appointed by City Council to study the relationship between the community as a whole, the black community in particular, and the Police Department. He said that the charge was to determine the problems, analyze the causes, and recommend solutions. He stated that a preliminary report was presented on September 18, 1989, which made recommendations in six areas. He said that those are being addressed at the Police Department. He said that one additional recommendation is now being made and that is to have the City Council appoint a permanent Citizens/Police Advisory Panel.

Their reasons for this new recommendation is that (1) a critical communications link has now been established, (2) that the committee is now serving as a problem-solving vehicle, and (3) that the work of the committee is long term in nature.

The Citizens/Police Advisory Committee recommends:

1. Establishment of a permanent Citizens/Police Advisory Committee.

2. The Panel shall include the following membership:

   A. Five area representatives from the north, east, south, west, and central areas of the City of Asheville;
   B. A councilmember;
   C. A youth representative (President of student body of Asheville High);
   D. The Director or Chairperson of the Community Relations Council;
   E. A police officer;
   F. Two ad hoc seats, to be temporarily filled for a specific problem, incident, event;
   G. The City Manager and Police Chief as staff to the Panel.

3. A method must be determined for the appointment/ selection of the Panel members. The committee recommends that the City Council appoint 3 or 4 members and then allow the Panel to select 1 or 2 additional

members. The membership must be reflective of the racial makeup of the community.

4. The Committee recommends that a chair, vice-chair, and recording secretary should be appointed, and that the chair should rotate through the geographical representatives. The City of Asheville Police Department will provide clerical support for the Panel.

5. The Panel should schedule regular meetings, with the frequency, date and time to be determined by the Panel.

6. The Committee recommends at least the following duties and responsibilities for the Panel, with others to be determined by the City Council and the Panel:

   A. To serve as Ombudsman;
   B. To mediate for problems;
   C. To serve as liaison between the police and community over concerns;
   D. To serve as an advocate for programs, ideas, and methods to improve the relationship between the police and the community;
   E. To serve such other functions as falls within the province of the Panel;
   F. To disseminate information to the community and to the government officials of Asheville.

Councilman Estes suggested that a student from each high school be appointed to the Panel, not only one youth representative from Asheville High. Mr. York said that the Committee would take his suggestion under advisement.

Vice-Mayor Moore thanked the Committee, on behalf of the City Council, for their hard work as it related to their report.

B. **Third reading of an ordinance regulating the operation of horse-drawn carriages in the City of Asheville.**

Vice-Mayor Moore stated that the ordinance is still being worked on and the third and final reading will not be considered at the meeting.

IV. NEW BUSINESS:

A. Resolution No. 90-56 - Resolution allowing the Asheville Police Department to participate in a Mutual Aid Agreement with 24 Western North Carolina law enforcement agencies.

Police Chief Gerald Beavers stated that 24 law enforcement agencies in western North Carolina (all who participate in the

Smoky Mountain law enforcement forum) have talked about putting together a mutual aid agreement for the entire section on many issues. He stated that this agreement will provide the mechanism for the participating law enforcement agencies to come to the immediate aid of the requesting agencies for such matters as natural disasters, lost persons, manhunts or for such everyday problems as undercover officers. He stated that Buncombe County has now agreed to become a participant in this agreement and the agreement will be amended to include them as a party.

Upon inquiry of Vice-Mayor Moore, Chief Beavers stated that all the officers will be certified law enforcement officers and depending on the type of assistance needed, will be trained in that specific area.

Upon inquiry of Councilman Ellison, City Attorney William F. Slawter explained the insurance liability aspects of the agreement for officers.

Upon motion of Councilman Frank, seconded by Councilman Estes, Resolution No. 90-56 was unanimously adopted.

Resolution Book No. 18 - Pages 119 & 120.

B. Sale of Disposal Parcel 121 in the East End/Valley Street Community Development Improvement Program.

City Manager Douglas O. Bean stated that the Housing Authority has tentatively accepted a bid in the amount of $650.00 for Disposal Parcel 121 in the East End/Valley Street Community Development Improvement Program. He said that the bid was received from Mr. Sidney E. Shorter who is the owner of the adjoining residential property and plans to use this parcel in conjunction with his adjoining property. Mr. Bean stated that this is not a buildable lot.

Upon motion of Councilman Ellison, seconded by Councilman Frank, the sale of Disposal Parcel 121 was unanimously approved.

C. Ordinance No. 1843 - An Ordinance Amending Chapter 12 of the Code of Ordinances of the City of Asheville (Fire Prevention and Protection).

City Manager Douglas O. Bean stated that this ordinance requires testing of hydrants on private property which are not part of the fire hydrant system maintained and operated by the Water Authority. He asked Mike Jones of the Asheville Fire Department to explain the ordinance in more detail for the Council.

Mike Jones, Assistant Fire Chief, explained that the City now maintains public hydrants but not private hydrants. He stated that public hydrants are checked and tested annually but there are no comparable provisions for private hydrants installed by an owner or a builder. He stated that since the Fire Department must rely on operation of these hydrants at fires, they are now requesting that these hydrants be tested as well.

Upon inquiry of Councilman Frank about fees for this testing, Assistant Fire Chief Jones stated that it would be up to the Asheville-Buncombe Water Authority to determine what, if any, fees will be charged.

Upon inquiry of Councilman Estes relative to the Woodfin situation, Assistant City Manager Charles Penny stated that he is working on a report and will be submitting it to the Council in the near future.

Vice-Mayor Moore said members of Council were previously furnished with copies of this ordinance and it would not be read in its entirety.

Councilman Ellison asked the City Attorney to amend this ordinance before second reading to expand the requirement of testing other hydrants within the City limits which are used by the Asheville Fire Department which are not maintained and operated by the Asheville-Buncombe Water Authority.

Councilman Ellison moved for the adoption of Ordinance No. 1843. This motion was seconded by Councilman Frank.

On a roll call vote of 5-0, Ordinance No. 1843 passed on its first reading.

D. Resolution No. 90-57 - Resolution authorizing the City Manager to sign a contract with Dillard Excavating Company, Inc., for the project known as South Swannanoa Sewer Project.

City Manager Douglas O. Bean said that bids were received for the construction of the South Swannanoa Interceptor Sewer Project and that Dillard Excavating Company Inc. was the lowest responsible bidder for this Project.

Assistant City Manager Charles Penny stated that construction should be ready to begin on June 1, 1990. He said that there were a few items still needing to be obtained but he saw no problem in getting them.

Upon inquiry of Councilman Ellison, Mr. Bean explained the reason for the approximate $40,000 amount over what the Engineering Division estimated, that being that the Metropolitan Sewerage District changed the specifications. He did state, however, that the Metropolitan Sewerage District will be reimbursing the City of Asheville back for this project.

Upon motion of Councilman Bratton, seconded by Councilman Frank, Resolution No. 90-57 was unanimously adopted.

Resolution Book No. 18 - Page 121.

E. Ordinance No. 1844 - An Ordinance Amending Ordinance Nos. 1650, 1674 and 1738 which provide for a Disability Review Board for members of the Asheville Policemen's and the Asheville Firemen's Pension and Disability Funds.

City Attorney William F. Slawter stated that under the old pension systems, members who were denied benefits could appeal to the City Council and then to Superior Court. He stated that when the Disability Review Board was set up, it was patterned after those old systems. At the request of City Council, he has now prepared an amendment to the Disability Review Board ordinance deleting City Council from the appeal process.

Mr. Slawter stated that this amendment would be made effective for all determinations made by the Disability Review Board at any of the Board hearings held after the April 5, 1990, hearing of the Disability Review Board. He further stated any person claiming benefits wishing to appeal from a determination made by the Disability Review Board at any of the Board hearings held on or before April 5, 1990, may waive their appeal to the Asheville City Council as formerly provided, and appeal directly to the Superior Court from a determination of the Disability Review Board. He said that such a waiver of the right to appeal to the Asheville City Council shall be in writing and filed by the claimant with the City Clerk.

Upon inquiry of Councilman Bratton, Mr. Slawter felt there was no opposition from any of the claimants the Council has been involved with to date, based upon the fact that their attorney recommended this amendment.

Vice-Mayor Moore said members of Council were previously furnished with copies of this ordinance and it would not be read in its entirety.

Councilman Ellison moved for the adoption of Ordinance No. 1844. This motion was seconded by Councilman Frank.

On a roll call vote of 5-0, Ordinance No. 1844 passed on its first reading.

Councilman Ellison moved to suspend the rules and proceed to the second reading of Ordinance No. 1844. This motion was seconded by Councilman Frank and carried unanimously.

On a roll call vote of 5-0, Ordinance No. 1844 passed on its second reading.

Councilman Ellison moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1844. This motion was seconded by Councilman Frank and carried unanimously.

On a roll call vote of 5-0, Ordinance No. 1844 passed on its third and final reading reading.

Ordinance Book No. 12 - Pages 114 & 115.

V. CONSENT:

A. Scheduling public hearing relative to the rezoning of property on Shiloh Road at the request of Perry M. Weaver for May 8, 1990.

B. Resolution No. 90-58 - Resolution authorizing the Mayor to execute an application and related documents for a grant from the North Carolina Department of Crime Control and Public Safety through the Governor's Crime Commission Office for the City of Asheville Police Department's Victim Assistance Unit.

Resolution Book No. 18 - Pages 122 & 123.

When Councilman Bratton inquired whether she would be in a conflict of interest position with regard to voting on this resolution (she being a member of the Crime Commission), City Attorney Slawter stated that she would not be in conflict.

Upon motion of Councilman Ellison, seconded by Councilman Frank, the consent agenda was unanimously adopted.

VI. OTHER BUSINESS:

A. Ordinance No. 1845 - Budget ordinance amendment relative to the funding of the South Swannanoa Sewer Interceptor Project.

City Manager Douglas O. Bean stated that this budget ordinance amendment would revise the Sewer Master Plan to reflect the current cost estimate for the South Swannanoa Sewer Interceptor Project. He again stated that the Metropolitan Sewerage District will be reimbursing the City of Asheville back for the cost of this project.

Vice-Mayor Moore said that members of Council were previously furnished with copies of this ordinance and it would not be read in its entirety.

Councilman Ellison moved for the adoption of Ordinance No. 1845. This motion was seconded by Councilman Estes.

On a roll call vote of 5-0, Ordinance No. 1845 passed on its first and final reading.

Ordinance Book No. 12 - Page 116.

B. Claims

The City Manager said claims were received from Mr. Alton Alligood (Sewer), Ms. Suzanne King (Streets), Ms. Peggy Yoder (Water), Mr. John Carroll (Streets), Ms. Valerie Horton (Water), Mr. Bonson Ramsey (Traffic Engineering), Ms. Georgia Gates (Water), and Ms. Debra Weaver (Water).

Vice-Mayor Moore referred the claims to the City Attorney for appropriate action.

C. Request of Mr. Ralph Bishop

Mr. Ralph Bishop read and presented a notarized letter dated April 24, 1990, to William F. Wolcott, Jr., City Clerk. The letter was making a written request for a certified and verbatim transcript of that portion of the City Council meetings of February 20, 1990, and February 27, 1990, when he addressed the City Council. The letter also asked for a certified verbatim transcript of the reply or statements made to him at those Council meetings by Mayor Michalove. It further requested a certified verbatim transcript of the City Attorney's answers to him on February 27, 1990. He stated that the letter was being presented to the City Clerk pursuant to "G.S. 160A-72, G.S. 132-6 and Rule 29 of the City Council Rules."

VII. ADJOURNMENT.

Councilman Bratton moved to adjourn the meeting at 5:20 p.m. This motion was seconded by Councilman Frank and carried unanimously.

H.M. Michalove
MAYOR

William F. Wolcott Jr.
CITY CLERK

Tuesday - May 1, 1990 - 4:00 p.m.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Eugene W. Ellison, William W. Estes and Norma Price; Assistant City Attorney Patsy Brison; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: Councilman Wilhelmina Bratton and City Attorney William F. Slawter

INVOCATION

The invocation was given by Councilman Price.

APPROVAL OF THE MINUTES

Upon motion by Vice-Mayor Moore, seconded by Councilman Frank, the minutes of the April 24, 1990, City Council meeting were approved as submitted.

Mayor Michalove stated that the April 10, 1990, minutes had not been reviewed by the City Attorney and approval would be considered at the May 8, 1990, meeting.

I. PROCLAMATIONS

A. Presentation of B*E*S*T Quarterly Award

City Manager Douglas O. Bean stated that the City has an employee recognition program called "B*E*S*T" which stands for Becoming Excellent Service Teammates. He stated that on April 16, 1990, the B*E*S*T Committee met and chose Mr. Carnell Lordman in the Sanitation Department, to receive the quarterly award. On December 29, 1989, Mr. Lordman observed an employee having medical problems and took immediate action. He put the employee in the cab of the truck, gave him food, and made arrangements to transport him to the Infirmary.

The City Manager introduced Mr. Lordman and presented him with a Certificate of Recognition for being the City's B*E*S*T employee for that quarter.

B. Proclamation - "Senior Power Day" - May 5, 1990

Mayor Michalove proclaimed May 5, 1990, as "Senior Power Day."

C. Proclamation - "Clean Streams Day" - May 5, 1990

Mayor Michalove proclaimed May 5, 1990, as "Clean Streams Day" and presented the proclamation to Mr. Bob Kendrick, Treasurer of the French Broad River Foundation.

D. Proclamation - "North Carolina Teacher Appreciation Week" - May 6 - 12, 1990

Mayor Michalove proclaimed the week of May 6 - 12, 1990, as "North Carolina Teacher Appreciation Week."

E. Proclamation - "Parks and Recreation Volunteer Recognition Day" - May 1, 1990

Mayor Michalove proclaimed May 1, 1990, as "Parks and Recreation Volunteer Recognition Day." Mayor Michalove introduced Mr. Ray Kisiah, Director of Parks, Recreation and Public Facilities. Mr. Kisiah introduced Mrs. Margaret Carter who was chosen as Volunteer of the Year. Ms. Amy Pruett, Recreation Center Director of North Carolina, was the person who nominated Mrs. Carter and she stated the many fine qualities Mrs. Carter possessed. Mayor Michalove then presented the proclamation to Mrs. Carter.

F. Proclamation - "Bike-to-Work Day" - May 2, 1990

Mayor Michalove proclaimed May 2, 1990, as "Bike-to-Work Day" and presented the proclamation to Ms. Mary Helen Duke, Land-of-Sky Regional Council, and Mr. Will Neville, Co-Chairman of the Bikeways Task Force.

G. Proclamation - "Nursing Ostomy Week" - May 1 - 8, 1990

Mayor Michalove proclaimed the week of May 1 - 8, 1990, as "Nursing Ostomy Week."

H. Proclamation - "Shrine Hospital Weekend" - May 4-5, 1990

Mayor Michalove proclaimed May 4 and 5, 1990, as "Shrine Hospital Weekend" and presented the proclamation to Mr. Bill Oglesby.

I. Proclamation - "National Prayer Day" - May 3, 1990

Mayor Michalove proclaimed May 3, 1990, as "National Prayer Day" and presented the proclamation to Ms. Karen Wynott. Ms. Wynott introduced her husband, Roger Wynott, Earl Rickey and Steve Cooper.

J. Resolution No. 90-59 - Resolution recognizing recent retiree Mr. John R. Smith.

Mayor Michalove presented a resolution of appreciation to John R. Smith, who has been employed with the City of Asheville since October, 1970. Mr. Smith was a Building Inspections Specialist in the Inspections Division and retired in March 1990.

Upon motion of Vice-Mayor Moore, seconded by Councilman Price, Resolution No. 90-59 was unanimously adopted.

Resolution Book No. 18 - Page 124.

II. PUBLIC HEARINGS

A. Ordinance No. 1846 - Public hearing relative to allowing horse stables as a conditional use in CBD, CS, LI and HI zoning districts.

At this time a speaker phone was brought into the Council Chamber. Councilman Bratton, who was at the University of North Carolina in Chapel Hill, was on the line and participated in the Council meeting.

Mayor Michalove opened the public hearing at 4:36 p.m.

City Clerk William F. Wolcott, Jr. presented the notice to the public setting the time and date of the public hearing and the affidavit of publication.

Ms. Carol Alberice, Urban Planner II in the Planning Department, said that the Planning and Zoning Commission, at its April 4, 1990, meeting, reviewed and approved an amendment to Chapter 30 of the Code of Ordinances to allow horse stables for horse drawn carriage operations to be allowed as a conditional use in the Central Business, Commercial Service, and Light and Heavy Industrial Districts.

She highlighted the amendments as follows:

1. In Section 30-5-11 (B) the definition of horse stables was added.

2. In Section 30-2-1 (B), CBD Central Business District, horse stables was added as a conditional use.

3. In Section 30-5-8 (B), CS Commercial Service District, horse stables was added as a conditional use.

4. In Section 30-5-13, LI Light Industrial District, a new section F was added listing horse stables as a conditional use.

5. In Section 30-5-14 (A), HI Heavy Industrial District, "horse stables (subject to the conditions provided for in Article 7 of this ordinance)" was added to the uses permitted section.

6. Section 30-7-1, Conditional Uses, was amended by adding the following section:

L. Horse Stables

1. All horses, mules, or other beast of burden must be stabled, washed, and fed within an enclosed building.

2. An annual inspection by a licensed veterinarian (D.V.M.) shall be conducted for both the sanitary conditions of the stable facility and health of the animals and submitted to the Downtown Development Department within 30 days of inspection.

3. On-site waste collection receptacles shall be housed within the stable building and serviced by private sanitary carrier.

4. The drainage of all liquid by products from stable shall be discharged into a permitted sanitary sewer line and shall not be disposed of by way of storm sewers.

Upon inquiry of Mayor Michalove, Ms. Alberice stated that the Grove Park Inn's horse carriage operation will be grandfathered. Following up on this inquiry, Assistant City Attorney Patsy Brison stated that it would be a nonconforming use and structure and subject to the Code provisions regulating nonconforming uses and structures.

When Councilman Price asked about the space of the stalls that must be provided for each animal, Ms. Alberice stated that the sub-committee which drafted this ordinance had not addressed that point but that would certainly be looked into.

Councilman Price stated that the more specific requirements the Council can put in the ordinance, the better the ordinance would be. Councilman Ellison agreed with this stating that since this is a new experience for Asheville, the Council wants to do the best job it can.

Councilman Ellison asked staff to provide him and other members of Council with ordinances from Charleston, S.C., and Covington, Kentucyk, in order that they might study the other ordinances to determine if the amendment to Section 30-7-1 is sufficient.

Ms. Brison stated that she believed that only the Covington, Kentucky, ordinance had a section about stabling and the other ordinances which the Legal Services Division had only related to the regulation of horse-drawn carriage business.

In reply to Councilman Ellison's question about whether any people who opposed the horse-drawn carriage ordinance were on the sub-committee who drafted this ordinance, Ms. Brison and Ms. Alberice stated that there wasn't, but there was a public hearing held and the people who came mainly had concerns about the horse-drawn carriage regulation ordinance, not the stabling requirements.

Mayor Michalove said that the Council appreciates the work the staff has done but would feel more comfortable in having the opportunity to review zoning ordinances from other cities that deal with stabling requirements and language that deals with the size of stalls for housing the animals. Along this line of thought, Councilman Price stated that in looking at these other ordinances, the Council might get a better insight into how the other cities address this in perhaps other ordinances, i.e. animal control ordinances.

Mayor Michalove asked if all Planning and Zoning Commission members were present at the April 4, 1990, Planning and Zoning Commission meeting. Ms. Julia Cogburn, Planning Director, said that Pat Hutchison was not present but the vote was unanimous. Ms. Brison provided information on the motions and votes of the Commission on this issue to Councilman Bratton.

Ms. Virginia Schmidt handed Council members a policy report entitled "Recommended Guidelines - Urban Horse and Carriage Operations" published by the University of Minnesota in cooperation with the Minnesota Horse Council. She read from sections relative to stable construction and operation.

When Ms. Schmidt questioned who would be enforcing and/or inspecting these stables and whether it would be enforced by a fine, Patsy Brison stated that the enforcement mechanism is in the zoning ordinance and those violations are enforced by the zoning enforcement officers whom the City currently employs.

Ms. Sally Rhodes asked if the stables would be open for inspection by the SPCA Advisory Board or other humane groups during any time during the year.

Councilman Ellison responded to Ms. Rhodes by stating that any group would have the right to check it out and report their findings to the City Manager. He stated that the violation of this ordinance would be no different from a violation of any other ordinance in the City.

Vice-Mayor Moore felt that we needed to involve the humane groups and there should be a requirement in the ordinance for a qualified SPCA member, or any other humane group member, to be able to inspect the stables at any time. Councilman Price agreed with Vice-Mayor Moore.

Mayor Michalove instructed Ms. Brison to amend the the horse-drawn carriage ordinance to provide for at least one required inspection and inspections at other times as complaints are received by the Carriage Permit Advisory Board. He also instructed her to give the Council members a report covering the different topics discussed at this meeting. He said it was not necessary to put them in the ordinance at this time.

Ms. Lynn Howard, President of Friends of Animals, stated that cruelty violations are very hard to prosecute. In reply to Councilman Ellison's question about what the recourse is now for animal cruelty, Ms. Howard stated that there is only one animal cruelty officer that has been appointed by the Buncombe County Commissioners.

In response to Ms. Howard's question about who would be owning the stables, Mayor Michalove stated that the stable operator would own the building or rent it.

Ms. Brison responded to Ms. Howard's question about the jurisdiction of the City to enforce this ordinance if the stable for the horse-drawn carriage business in the City were located in the County. Ms. Brison said that the City has no jurisdiction over stables in the County, only jurisdiction of the care of the horses in the City. She also stated that we could not regulate the size of the stalls, sanitary requirements or the location of the stables in the County. Ms. Howard suggested some type of agreement with Buncombe County be drawn to allow the City to enforce this ordinance in the County.

Upon inquiry of Ralph Bishop about the different zoning districts, Ms. Alberice showed Mr. Bishop the different districts on a color-coded map.

Ms. Hazel Fobes stated that she was opposed to having horse-drawn carriages in the City. She did, however, support the Council's concerns and hoped the Council did not make a mistake by letting this type of operation in the City.

Mr. Rodney Jarvis stated that he has been in several cities that allowed horse-drawn carriage businesses and would join forces with Mr. Robert Fleming in giving the Council whatever information they needed in order to allow this type of business in the City.

Councilman Frank suggested Ms. Brison contact the City of Minneapolis, Minnesota, to see if they adopted the guidelines which Ms. Schmidt handed out earlier to Council members.

Mayor Michalove closed the public hearing at 5:26 p.m.

Mayor Michalove stated that members of Council have previously received copies of this ordinance and it would not be read in its entirety.

Councilman Bratton moved for the adoption of Ordinance No. 1846. This motion was seconded by Vice-Mayor Moore.

On a roll call vote of 7-0, Ordinance No. 1846 passed on its first reading.

III. OLD BUSINESS

A. Third reading of Ordinance No. 1838 - An ordinance regulating the operation of horse-drawn carriages in the City of Asheville

Mayor Michalove stated that members of Council have been furnished with the third draft of the horse-drawn carriage ordinance. He stated that Mr. Robert Fleming called to let the Council know that, due to business obligations, he would not be able to be present at the Council meeting. Mayor Michalove then stated that since there were people at this meeting, the Council would hear comments and deal with the changes made to the ordinance to date.

Mayor Michalove instructed Ms. Brison to look into the reason that Charleston, S.C., requires $1 Million for liability insurance.

Assistant City Attorney Patsy Brison highlighted the changes the Council requested since the last draft as follows:

1. In Section 10 (A) regarding insurance, the following sentence was added: "All permits issued hereunder shall include a notarized statement of the permit holder to incorporate the provisions set forth herein."

2. In Section 11 regarding the horse-drawn carriage driver's permit, a chauffeur's license must be obtained by the applicant, a training/apprenticeship requirement was added.

3. In Section 13 regarding safety equipment required, turn signals, lights and reflectors must be visible for a distance of at least 1000 feet.

4. In Section 18 regarding other requirements for the safety of the animals, a poly-urethane shoe must be used, the temperature of the horse must be taken after each carriage tour, no animals shall pull the carriages when the temperature reaches certain maximums and minimums, and requirements were added stating the number of hours and days horses can be worked and the rest periods required.

5. In Section 25 regarding hours of operation, the hours of 11:30 a.m. to 1:30 p.m. were added during which operation of carriages is prohibited.

6. A new Section 29 was added appointing a Carriage Permit Advisory Board.

Upon inquiry of Councilman Price about no horse being in harness for more than 5 days in a 7 day period, Ms. Brison stated that she was instructed to use the Covington, Kentucky, ordinance as a guide and that wording came directly from that ordinance.

Mayor Michalove and Councilman Frank felt the hours restricting operation during the lunch hour were too restrictive. City Manager Bean stated that the Traffic Engineering Division had done a study and felt the morning and afternoon hours should be hours during which operations should be restricted.

Councilman Price suggested expanding the responsibilities of this Advisory Board to help with the stabling provisions.

Upon inquiry of Vice-Mayor Moore regarding the legality of requiring access to the stables by members of the Advisory Board, Ms. Brison stated that the City would have the right to inspect the stables at reasonable times. She said the City's zoning enforcement officers have authority to inspect these stables and not people from other agencies.

Vice-Mayor Moore felt that the driver's should not have to have a chauffeur's license. He felt it was much to stringent.

After some discussion between Vice-Mayor Moore and Councilman Ellison regarding the need for chauffeur's licenses, Councilman Ellison suggested that the staff call the Department of Motor Vehicles and ask about the requirements for obtaining a chauffeur's license, such as whether or not it would be unreasonable to require that type of license for a horse-drawn carriage and the expense involved.

Mayor Michalove then asked for comments from the public.

Ms. Jill Wilson is opposed to this type of business in the City but is encouraged by the changes proposed in this latest draft. Her main concern is the enforcement of the ordinance and the role of the Advisory Board.

Mr. Jack Westall, attorney for the Grove Park Inn, stated that he had written a letter to Ms. Brison dated April 30, 1990, stating the Grove Park Inn's concerns as it relates to this proposed ordinance. The summary is as follows:

1. They do not understand the intent of the sentence added in Section 10 (A).

2. The chauffeur's license requirement would present them with a substantial amount of difficulty and they request, at the very least, that the ordinance be revised so that a chauffeur's license is required only if the carriage contains 8 or more passengers.

3. The training requirement would disqualify all their drivers and put them out of business.

4. The requirement that turn signals be visible for a distance of 1,000 feet may be irrelevant because they do not think there will be many streets where there is a 1,000 foot straight line of sight. Also they did not feel there would be much need for a fire extinguisher.

5. They felt poly-urethane shoes would not prove to be satisfactory. They request that the operator have the option of using the metal shoes with the provision that the City Inspector would have appropriate authority, after careful review, to direct that poly-urethane shoes be used if it is apparent that the metal shoes are not satisfactory.

6. The Grove Park Inn tours usually range from 10-15 minutes and they feel that having to take the horse's temperature after each tour is not practical.

7. They feel that the provision relative to animals not being allowed to pull carriages above or below certain temperatures would put a very serious damper on the use of the horses in the summer at the Grove Park Inn.

8. They feel that the owner and/or operator of the horse-drawn carriage business should be legally entitled to at least one notice of violation before the Carriage Inspector has a right to suspend the operation.

Vice-Mayor Moore felt that if a chauffeur's license is required, then it should be required for all the carriages, regardless of the number of people being carried.

Mr. Westall felt that more authority should be given to the inspector to determine the type of shoes which should be used.

Upon inquiry of Councilman Price about the knowledge of these type inspections by the inspectors, City Manager Douglas Bean stated that our inspectors would make their decisions based on data gathered. He said that it would not be feasible to train one person to enforce the requirements of the horse-drawn carriage operation.

It was the consensus of Council that taking the temperature of the horses after every Grove Park Inn tour was excessive. They did note, however, that the type tours that would be taking place in the downtown area would be approximately 1 hour long.

Mayor Michalove thanked Mr. Westall for bringing these concerns to the attention of Council and stated that they would be taken under advisement.

Ms. Sally Rhodes was concerned about the number of people allowed in a single carriage because of the terrain of Asheville. She also requested representation of humane groups on the Advisory Board. She questioned the procedure of registering a complaint and how they would be handled.

Councilman Price suggested that there be one representative from the Humane Society, one representative from the Friends of Animals and one representative from the SPCA on the Advisory Board.

Mr. Bill McKelvy of Swannanoa, stated that Tommy West inspects horse's hooves and legs at the Western North Carolina Agricultural Center and feels that inspections should be made more frequent than once every 4 months as required by the ordinance. He stated that he has spoken with several meteorologists and feels the section relative to the temperatures above which horses could be used is much too lax and heat strokes would not be uncommon in the horses.

Mayor Michalove said that the third and final reading of this ordinance would be held in two weeks (May 15, 1990) in order to give the staff time in which to address the many concerns raised at this meeting.

Councilman Ellison suggested someone travel to Charleston to see firsthand how they enforce their ordinance, where training is done, observe the care of the animals and see the stabling operations. Councilman Bratton thought Councilman Ellison's suggestion was good and she suggested he chair a committee in order to do just that.

Upon inquiry of Mayor Michalove, Ms. Rhodes said that training is available locally to become an animal cruelty investigator. She stated that if the City chose that route, they would need to have that person deputized.

Mayor Michalove said that the City Manager would be preparing the information requested by the Council at this meeting and would make a decision about a trip to Charleston.

B. Resolution No. 90-60 - Resolution awarding bids and authorizing the City Manager to sign contracts for renovation of the Martin Building (located on Haywood Street).

City Manager Douglas Bean summarized a memorandum dated April 26, 1990, to the City Council relative to the history of the Martin Building Project and how the project fits in with our Downtown Revitalization Program. He stated that if public restrooms are desired, an additional $15,000 would need to be added.

Councilman Price stated that the City now owns the Building and needs the space. She said that in the future, we could sell the space, lease it or turn it over to private enterprise. She said that we are not bound to this Building forever and that upfitting this space would benefit the City in the longrun.

Councilmen Frank, Bratton and Vice-Mayor Moore all stated that it was very important to include the public restrooms in the building.

Upon inquiry of Councilman Estes, City Manager Douglas Bean stated that the County has $66,000 as paid their part in the walk-through part of the project.

Councilman Ellison was troubled by the increased costs as compared to the estimates but he would support this because he felt we were too far into the project to back off and it would

cost more money not to finish than to finish. He also stated that, in the future, the Council needed to prioritize better, i.e. purchasing a building vs. correcting storm water problems and sewer line problems.

Councilman Estes stated that the City needed to get information out to the general public so they could have a better concept of what is going on. He felt we needed to do a better job of explaining the projects beforehand, not afterwards.

Councilman Bratton stated that this was part of the building process in downtown Asheville - not only a building. She felt this was a very positive step in the right direction.

The contracts to be awarded (all lowest responsible bidders) with the addition of public restrooms are as follows:

Southworth Construction Company (General Contract)	$173,000
McNutt Service Group (Mechanical Contract)	$ 29,498
King Electric (Electrical Contract)	$ 30,485
A & B Construction & Development (Plumbing Contract)	$ 16,822

Upon motion of Vice-Mayor Moore, seconded by Councilman Frank, Resolution No. 90-60 was unanimously adopted, including the addition of public restrooms.

Resolution Book 18, Pages 125-126

C. Ordinance No. 1847 - Budget Ordinance Amendment - Downtown Redevelopment Fund - Rankin Haywood Arcade.

City Manager Douglas O. Bean stated that this budget ordinance amendment would provide funding to complete the Haywood Rankin Arcade construction in the amount of $165,000 (including public restrooms).

Upon inquiry of Councilman Ellison, City Manager Bean stated that only minor furnishings would be needed to furnish the City offices, i.e., conference room furniture, a small copying machine and some utilities.

Mayor Michalove said members of Council were previously furnished with copies of this ordinance and it would not be read in its entirety.

Councilwoman Price moved for the adoption of Ordinance No. 1847, with the additional $15,000 for public restrooms, in the total amount of $165,000. This motion was seconded by Vice-Mayor Moore.

On a roll call vote of 7-0, Ordinance No. 1847 was approved on first and final reading.

Ordinance Book 12 at Page 119.

At this point (7:00 p.m.), Councilman Bratton was excused from the meeting.

D. Second reading of Ordinance No. 1843 - An ordinance amending Chapter 12, Fire Prevention and Protection, of the Code of Ordinances of the City of Asheville regarding fire hydrant testing.

City Manager Douglas Bean said that this ordinance was amended to expand the requirement of testing other hydrants within the City limits which are used by the Asheville Fire Department and which are not maintained and operated by the Asheville-Buncombe Water Authority.

On a roll call vote of 7-0, Ordinance No. 1843 passed on its second reading.

E. Resolution No. 90-61 - Resolution authorizing the Mayor of the City of Asheville to convey real property on Ivanhoe Avenue to Margaret Heissenberg.

City Manager Douglas O. Bean said that the City owns a vacant lot on Ivanhoe Avenue adjacent to the home of Margaret Heissenberg. Ms. Heissenberg made an offer to purchase the property for its appraised value of $3,250. The City has no anticipated use for the property and has not received an upset bid.

Mayor Michalove said that members of Council have previously been furnished with copies of this resolution and it would not be read.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 90-61 was unanimously adopted.

Resolution Book 18 at Page 127.

F. Resolution No. 90-62 - Resolution authorizing the sale of property on Sunset Mountain.

City Manager Douglas O. Bean said that the City owns a strip of land on Sunset Mountain, off of Blue Briar Road. He said that adjacent property owners, Mr. and Mrs. C. Foster Aldridge, have made an offer to purchase the property in the amount of $2,000. The City has not received an upset bid.

Mayor Michalove said that members of Council have previously been furnished with copies of this resolution and it would not be read.

Upon motion of Councilman Ellison, seconded by Councilman Estes, Resolution No. 90-62 was unanimously adopted.

Resolution Book 18 at Page 128.

VI. NEW BUSINESS

A. Ordinance No. 1848 - Budget ordinance amendment requesting appropriation of funds necessary to expand day camp program from one site to four sites.

City Manager Douglas Bean said that the purpose of this budget amendment is to appropriate funds for the summer day camp program which will be expanded from one school site to four sites The three additional sites are Aycock, Randolph and Claxton. He said the fees will be charged to participants in the program to cover all costs.

Mayor Michalove said members of Council have previously been furnished with copies of this ordinance and it would not be read.

Councilman Ellison moved for the adoption of Ordinance No. 1848. This motion was seconded by Vice-Mayor Moore.

On a roll call vote of 7-0, Ordinance No. 1848 was passed on its first and final reading.

Ordinance Book 12 at Page 120.

V. CONSENT

A. Resolution No. 90-63 - Resolution of intent to close a portion of Irving Street and calling for a public hearing on May 29, 1990.

Resolution Book 18 at Pages 129 & 130

B. Resolution No. 90-64 - Resolution authorizing the City Manager to execute a special order with the Environmental Management Commission.

Resolution Book 18 at Pages 131 & 132

C. Resolution No. 90-65 - Resolution authorizing the City Manager to execute a right-of-way agreement with Asheville Community Theatre.

Resolution Book 18 at Pages 133

Upon motion of Councilman Frank, seconded by Councilman Price, the consent agenda was unanimously adopted.

VI. OTHER BUSINESS

A. Reminder - Budget Worksession

The City Manager reminded the Council of their first budget work session to be held on Thursday, May 3, 1990, at 4:30 p.m. in the Chamber of Commerce's Board Room on the 2nd Floor. He said it would last approximately 3-4 hours.

B. Planning and Zoning Commission Meeting

The City Manager said the City Council was invited to a Planning and Zoning Commission meeting to discuss changes in the erosion control ordinance. That meeting will be held on Wednesday, May 2, 1990, at 7:00 p.m. in the Council Chamber.

C. Report requested relative by Councilman Price

Councilman Price requested that staff look at the "repair shop" at the intersection of I-240 and Haywood Road (where the Greyhound Bus Station used to be). She said that she would like to see if it is properly zoned for a junkyard and if it is, she would like to have the screening requirements enforced.

D. Claims

City Manager Douglas Bean stated that the following claims were received by the Legal Services Division for the week ending April 27, 1990: Bob Fitzpatrick (Traffic Engineering), Nancy Venturella (Water), Tammy Curtis (Water), David M. Brown (Water), Charlene Hopper (Water), Jennifer Peek (Streets), and Paul Arrowood (Streets). He stated that these claims have been referred to the appropriate insurers for investigation.

City Manager Bean also stated that the City was served with a lawsuit on April 23, 1990, in which Wind in the Oaks Homeowners' Association Inc., et al, are the petitioners. The nature of the suit is alleged negligent inspection of Wind in the Oaks Condominiums.

VII. ADJOURNMENT

Mayor Michalove adjourned the meeting at 7:10 p.m.

William F. Molloy
CITY CLERK

H. W. Michalove
MAYOR

Tuesday - May 8, 1990 - 4:00 p.m.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Wilhelmina Bratton, Mary Lloyd Frank, Eugene W. Ellison, William W. Estes and Norma Price; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Ellison.

APPROVAL OF THE MINUTES

The minutes of the April 10, 1990, and May 1, 1990, City Council minutes were approved.

I. PROCLAMATIONS

A. Proclamation - "Law Enforcement Officers Week" - May 14-18, 1990, and "Peace Officers Memorial Day" - May 15, 1990

Mayor Michalove proclaimed the week of May 14-18, 1990, as "Law Enforcement Officers Week" and also May 15, 1990, as "Peace Officers Memorial Day". He presented the proclamation to Chief of Police Gerald Beavers.

B. Presentation of Distinguished Budget Presentation Award

City Manager Doug Bean stated that the Government Finance Officers Association voted to award the City of Asheville's fiscal year 1989-90 budget document the Distinguished Budget Presentation Award. He said that this award is the highest form of recognition in governmental budgeting. He presented the award to Robert G. Wurst, Audit/Budget Director. Mr. Wurst praised City employees Peggy Gardner, Hugh Romine and Debbie Messer who also worked many hours preparing the document.

II. PUBLIC HEARING

A. Public Hearing - Rezoning Property on Shiloh Road at the request of Perry M. Weaver.

Mayor Michalove opened the public hearing at 4:19 p.m.

City Clerk William F. Wolcott, Jr. presented the notice to the public setting the time and date of the public hearing and the affidavit of publication.

Ms. Carol Alberice, Urban Planner II in the Planning Department, said that on April 4, 1990, the Asheville Planning and Zoning Commission reviewed and recommended approval of rezoning property on Shiloh Road (Ward 7, Sheet 18, Lot 125-1/2) from R-3 Residential District to CH Commercial Highway District. She said it is a vacant lot which is approximately 7,700 square feet.

Upon inquiry of Councilman Ellison, Ms. Alberice stated that adjacent property owners are not informed of the proposed use of the property that is requested to be rezoned. She did state, however, that they are informed that a request has been made to rezone from one district to another but that they do not list all the acceptable uses in that district.

Councilman Ellison suggested that we let the adjacent property owners know what the proposed use will be and Ms. Alberice stated that she would be happy to pass his suggestion along to the Planning Director.

Mayor Michalove closed the public hearing at 4:24 p.m.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Vice-Mayor Moore moved for the adoption of Ordinance No. 1849. This motion was seconded by Councilman Frank.

On a roll call vote of 7-0, Ordinance No. 1849 passed on its first reading.

III. OLD BUSINESS

A. Second reading of Ordinance No. 1846 - An ordinance allowing horse stables as a conditional use in CBD, CS, LI and HI zoning districts.

Councilman Ellison moved to continue the second reading of this ordinance until May 15, 1990, at which time a new draft incorporating the changes to date will be considered at that time. This motion was seconded by Vice-Mayor Moore and carried unanimously.

B. Third reading of Ordinance No. 1843 - An ordinance amending Chapter 12 of the Code of Ordinances of the City of Asheville regarding fire hydrant testing.

Mayor Michalove stated that members of Council have been furnished with copies of this ordinance and it would not be read in its entirety.

On a roll call vote of 7-0, Ordinance No. 1843 passed on its third and final reading.

Ordinance Book No. 12 at Page 112-113.

IV. NEW BUSINESS

A. Ordinance amending Chapter 5 (Animals and Fowls) of the Code of Ordinance of the City of Asheville.

City Attorney William Slawter explained that this ordinance will allow civil penalties for all violations of the animal control ordinance.

Mayor Michalove said that members of Council had been previously furnished with copies of this ordinance and that it would not be read in its entirety.

Councilman Price moved for the adoption of Ordinance No. 1850. This motion was seconded by Vice-Mayor Moore.

On a roll call vote of 7-0, Ordinance No. 1850 passed on its first reading.

Councilman Price moved to suspend the rules and proceed to the second reading of Ordinance No. 1850. This motion was seconded by Councilman Frank and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1850 passed on its second reading.

Councilman Price moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1850. This motion was seconded by Vice-Mayor Moore and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1850 passed on its third and final reading.

Ordinance Book No. 12 at Pages 122-123

B. Budget ordinance amendment to fund management expenses for properties on Biltmore Avenue.

City Manager Doug Bean stated that this budget ordinance amendment will provide a budget for management expenses for properties which were acquired in the Pack Plaza negotiations. He said these properties are the Asheville Arts Council, Brown and Associates and Fains. He stated that these properties do generate rent income and this amendment will allow property management expenditures.

Mayor Michalove said that members of Council were previously furnished with copies of this ordinance and it would not be read in its entirety.

Councilman Bratton moved for the adoption of Ordinance No. 1851. This motion was seconded by Councilman Price.

On a roll call vote of 7-0, Ordinance No. 1851 passed on its first and final reading.

Ordinance Book No. 12 at Page 124

B. Resolution to approve a special permit allowing the conversion of a Type VI single family dwelling located at 95 Church Street in Asheville to a business within the primary fire limits under the provisions of N. C. Gen. Stat. sec. 160A-436, as amended in 1989

Mr. Bob Hixson, Director of Inspections, said that this resolution would approve the issuance of a special permit which would allow the conversion of a wood frame single family dwelling to a business occupancy within the primary fire limits. He said that this permit is needed to allow Mr. David Levitch to obtain a certificate of occupancy for the building at 95 Church Street. He said that this building was a single family dwelling (wood frame) that has been renovated and converted to a business. He said that this work was done after a permit was issued by the Building Inspections Division. He said that the certificate of compliance permit was issued in error because the wood frame building should not have been modified, repaired or moved in the primary fire limits without a special permit of the local building inspections department and the approval of City Council and the Department of Insurance. This resolution would now provide approval of the special permit by the City Council and forward it on to the Department of Insurance for their approval.

Mayor Michalove stated that this resolution has been previously furnished to members of Council and will not be read in its entirety.

Councilman Price moved for the adoption of Resolution No. 90-66. This motion was seconded by Councilman Ellison and carried unanimously.

Resolution Book No. 18 at Page 134

D. Budget ordinance amendment for repairs to the Civic Center Parking Deck.

City Manager Doug Bean stated that this budget amendment would appropriate funds for repair and maintenance of the Civic

Center Garage. He said that the funds are currently appropriated in the Capital Improvements Project budget.

Mayor Michalove said that members of Council were previously furnished with copies of this ordinance and it would not be read in its entirety.

Vice-Mayor Moore moved for the adoption of Ordinance No. 1852. This motion was seconded by Councilman Frank.

On a roll call vote of 7-0, Ordinance No. 1852 passed on its first and final reading.

Ordinance Book No. 12 at Page 125

V. CONSENT

A. Scheduling a public hearing relative to an appeal from petitioner Roger N. Chipman from the Planning and Zoning Commission's denial of the rezoning of 9 properties from R-1 Residential District to CG Commercial General District on Sweeten Creek Road and Royal Pines Drive for June 5, 1990.

B. Motion to amend Resolution No. 90-63 scheduling a public hearing on the intent to close a portion of Irving Street. Original resolution set public hearing for May 29, 1990. This motion will set the public hearing for June 5, 1990.

Upon motion of Vice-Mayor Moore, seconded by Councilman Frank, the consent agenda was unanimously adopted.

VI. OTHER BUSINESS

A. Group development action by the Planning and Zoning Commission

Ms. Carol Alberice said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. The action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. The following actions were taken by the Planning and Zoning Commission at their meeting on May 2, 1990:

1. Overlook Village Landscape Plan

Ms. Alberice stated that at the Planning and Zoning Commission's meeting on May 2, 1990, the Commission unanimously denied the revisions to the Overlook Village landscape plans dated August 2, 1989, and stated that no permanent certificate of

compliance would be issued until the March 16, 1989, plans were implemented. She said 22 trees were to remain on the northern edge of the property but they were removed. They have to be replaced by substantial trees. She said that the Planning and Zoning Commission reaffirmed landscape plans originally drawn on March 16, 1989, and approved on April 16, 1989, at a special meeting of the Commission.

Ms. Alberice stated that she had just received a letter dated May 7, 1990, from the developer of the Overlook Village Shopping Center, Mr. Dale B. Kays, clarifying the owner's position and asking the City Council for a public hearing which they feel will clear up a misunderstanding with respect to the Planning and Zoning Commission's denial of their landscape plans. A copy of that letter will be on file in the City Clerk's Office.

Upon inquiry of Councilman Ellison, Ms. Alberice stated that if the landscape plan is not approved by the Council, they would continue to operate, as they have been, under a temporary certificate of compliance. They would have to comply with all the zoning matters, including the landscape plan before a permanent certificate of compliance would be issued.

Councilman Price explained the procedure in detail of the Overlook Village group development, stating that the City Council has already approved the site plan subject to the Planning and Zoning Commission's approval of the landscape plan.

Councilman Ellison felt that since the Planning and Zoning Commission had already denied the landscape plan, it should be no problem in granting the developer a public hearing. He felt that if a citizen disagrees with the Planning and Zoning Commission, they should have a right to appeal to the City Council.

City Attorney William Slawter stated that the ordinance is silent with regard to an appeal of this nature. He said that the City Council would have the right to hear such an appeal, but that the City Council is not required to hear that appeal.

Upon inquiry of Councilman Price, Ms. Alberice stated that the Planning and Zoning Commission did not support any changes to the last approved landscape plan.

Vice-Mayor Moore suggested that the Chairman of the Planning and Zoning Commission be present if, and when, a public hearing was held. Councilman Price spoke against Vice-Mayor Moore's suggestion.

Councilman Bratton stated that there needs to be some consistency in procedure for appeals. She said that the Council has already delegated authority to the Planning and Zoning Commission and now it has found its way back to the City Council.

A motion was made by Councilman Ellison to set a public hearing on this matter for June 5, 1990. This motion was seconded by Vice-Mayor Moore and carried on a 4-3 vote, with Vice-Mayor Moore and Councilmen Ellison, Frank and Estes voting "yes" and Councilmen Bratton and Price and Mayor Michalove voting "no."

2. **Logan Avenue Restoration - 124 Logan Avenue**

Mr. Gerald Green, Senior Planner in the Planning Department, said that the Planning and Zoning Commission, at its May 2, 1990, meeting, reviewed and approved the site plan for the restoration of 124 Logan Avenue. He said that the proposed change is from a single-family dwelling to 4 apartments. He said the construction activity on the home would be limited to internal renovation, with the exception of enlarging the parking area and some landscaping. He said all services are available at the site.

City Council accepted the recommendation of the Planning and Zoning Commission by taking no action.

3. **Park Avenue - Phase II**

Mr. Gerald Green stated that the Planning and Zoning Commission, at its May 2, 1990, meeting, reviewed the revised plan for the proposed development and recommended denial of the site plan. He stated that Mr. Chuck Brown, developer, was present at the meeting and has requested the City Council postpone any action on this matter until May 22, 1990. Mr. Brown felt that postponement would give him additional time in which to weigh the options that were available to him - (1) to request a public hearing, (2) to revise the plan and send it back to the Planning and Zoning Commission or (3) to present a new plan. Mr. Brown confirmed this request.

Councilman Price moved to postpone City Council action on this item for two weeks at the developer's request. This motion was seconded by Vice-Mayor Moore and carried unanimously.

Mr. Green stated that he would put together a report for the Council on the comments of the Planning and Zoning Commission on the denial of this group development.

B. **Budget Work Session**

It was the consensus of the City Council to schedule their next budget work session during the Pre-Council time on June 5,

1990. The work session would begin at 1:00 p.m. and no other Pre-Council items would be discussed.

C. Claims

City Manager Doug Bean stated that the following claims were received by the Legal Services Division for the week ending May 4, 1990: Michael Waddell (Parks); Martha Lakenan (Sewer); Debbie Bulsiewicz (Water); Deanna Coxie (Parks); Darlene Case (Water); and Beverly-Hanks & Associates (Streets). He stated that these claims have been referred to the appropriate insurers for investigation.

CONTINUATION OF NEW BUSINESS

A. Appeal of James Randall from the decision of the Disability Review Board for Asheville Police Officers and Firefighters.

Mayor Michalove announced that, since he had participated in the deliberations and decision of the Disability Review Board concerning the request of Mr. Randall, he would ask to be excused from participation in the consideration of this matter by the City Council in order to avoid the possibility of a conflict of interest. Upon motion of Councilman Ellison, seconded by Vice-Mayor Moore, the City Council voted unanimously to excuse Mayor Michalove from participation in consideration of this matter.

Mr. Randall was present at the City Council meeting for the presentation of his appeal, and was represented by his attorney, Gary A. Dodd. Following the presentation on behalf of Mr. Randall, the City Council held an executive session to discuss the merits of Mr. Randall's claim, which executive session was called for by motion of Vice-Mayor Moore, seconded by Councilman Frank, and adopted unanimously by the City Council. Following deliberations in executive session, the City Council returned to open session and upon a unanimous vote of 6-0 voted to uphold the decision of the Disability Review Board and deny the request of Mr. Randall that his claim be reconsidered. A copy of the transcript of proceedings is on file in the Office of the City Clerk.

There was some discussion held relative to amending the ordinance of the Disability Review Board to establish specific procedures in order that a record of proceedings can be established.

VII. ADJOURNMENT

Councilman Bratton moved to adjourn the meeting at 6:17 p.m. This motion was seconded by Councilman Price and carried unanimously.

William T. Hollett Jr.
CITY CLERK

W. W. Nicholson
MAYOR

Tuesday - May 15, 1990 - 4:00 p.m.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Wilhelmina Bratton, Mary Lloyd Frank, Eugene W. Ellison and Norma Price; Associate City Attorney Martha McGlohon; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: Councilman William W. Estes; and City Attorney William F. Slawter

INVOCATION

The invocation was given by Vice-Mayor Moore.

APPROVAL OF THE MINUTES

The minutes of the May 8, 1990, City Council minutes were approved.

I. PROCLAMATIONS

A. Proclamation - "Industrial Appreciation Day" - May 17, 1990.

Mayor Michalove proclaimed May 17, 1990, as "Industrial Appreciation Day" and presented the proclamation to Mr. Steve Jenkins.

B. Proclamation - "Motorcycle Awareness Month" - May, 1990.

Mayor Michalove proclaimed May, 1990, as "Motorcycle Awareness Month" in the City of Asheville.

C. Proclamation - "National Public Works Week" - May 20 - 26, 1990.

Mayor Michalove proclaimed the week of May 20 - 26, 1990, as "National Public Works Week" and presented the proclamation to Mr. Jim Ewing, Director of Public Works, and to Mr. Harold Huff, Director of Water, Wastewater and Engineering.

D. Resolution No. 90-67 - Resolution recognizing recent retiree Lorraine Justus.

Mayor Michalove read a resolution recognizing Ms. Lorraine Justus, who has been employed with the City of Asheville since October, 1983. Ms. Justus was an Account Clerk in the Accounting

Division and was forced into retirement by MS. Charlotte Tell, City Accountant, accepted the resolution for Ms. Justus.

Upon motion of Councilman Ellison, seconded by Councilman Price, Resolution No. 90-67 was unanimously adopted.

Resolution Book No. 18 - Page 135.

E. Proclamation - "Soap Box Derby Days in Western North Carolina" - May 19, 1990, and June 2, 1990.

Mayor Michalove proclaimed Saturday, May 19, 1990, and Saturday, June 2, 1990, as "Soap Box Derby Days in Western North Carolina" and presented the proclamation to Mr. Jack Lang, President of the West Asheville Rotary Club, and to Mr. Tommy Rice, President-Elect of the West Asheville Rotary Club.

II. PUBLIC HEARINGS

NONE

III. OLD BUSINESS

A. Second reading of Ordinance No. 1849 - An ordinance rezoning property on Shiloh Road.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Ellison moved for the adoption of Ordinance No. 1849. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1849 passed on its second reading.

Since there was no opposition to this rezoning and if the Council members did not object, Councilman Ellison moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1849. This motion was seconded by Vice-Mayor Moore.

Councilman Price stated that it is the standard practice to have rezonings heard at three different Council meeting days.

Councilman Ellison and Vice-Mayor Moore withdrew their motion to suspend the rules and proceed to the third and final reading of Ordinance No. 1849.

Mayor Michalove stated that the third and final reading of Ordinance No. 1849 would be heard at next week's Council meeting.

B. Ordinance No. 1846 - An ordinance allowing horse stables as a conditional use in CBD, CS, LI, and HI zoning district.

Mayor Michalove stated that this item would be postponed until additional information could be obtained.

IV. NEW BUSINESS

A. Presentation of the Asheville-Buncombe Water Authority Budget.

Mr. Don Williams, Chairman of the Asheville-Buncombe Water Authority Budget Committee, highlighted the Fiscal Year 1990-91 Asheville-Buncombe Water Authority budget for Council members. He said that the Water Authority approved the budget earlier that day. He said that the Water Agreement calls for the Asheville City Council's and the Buncombe County Board of Commissioners' approval of their budget. He said that the budget proposes a 4% increase of water rates effective July 1, 1990.

Councilman Ellison voiced concern about some items which ran over the budgeted amount significantly. Mr. Williams accounted some of those over expenditures due to unexpected water line breaks, extremely cold weather, etc.

Mayor Michalove thanked Mr. Williams for presenting the budget and said that the Council will review the budget in more detail and let the Water Authority know if their decision before July 1, 1990.

B. Downtown Loan Pool Report

Mayor Michalove introduced Mr. Alfred J. Whitesides, Jr., Chairman of the Downtown Loan Pool Task Force.

Mr. Whitesides introduced the present members of the Task Force and then proceeded to give a brief summary of the report to Council members.

Some items he mentioned from the report are that (1) small business development and residential development is needed at this time in the core area of the downtown, (2) CDBG funds in the amount of $500,000 are needed for the Downtown Assistance Program especially given the inclusion of housing, (3) a range of $10,000-$100,000 for loans is requested, (4) the program should start as soon as possible, (5) the first month of the program be set aside for publicizing the program, and (6) after 6 months of operation of the program, a review be made.

Upon inquiry of Councilman Ellison, Mr. Whitesides said that there was no specific amount set aside for housing. Councilman Ellison suggested that a significant portion of the $500,000 be set aside to benefit low and moderate income housing. He stated that housing needs to be a top priority.

Upon inquiry of Mayor Michalove, Mr. Whitesides said that each application will be looked at individually to set the interest rate. He said that items like the type of loan, the amount of the loan and the circumstances of the individual would have a bearing on the interest rate. He said that they will try to structure the loan on an individual basis and that all the loans will be below the market rate.

Upon inquiry of Councilman Ellison, Mr. Whitesides said that a default rate range of 5% to 10% would not be high for this type loan and that is the range they are anticipating.

Councilman Bratton felt that the loan pool was an excellent idea in order to get people started who wouldn't normally have the opportunity to do so.

Councilman Frank stated that when Zuchelli, Hunter & Associates did a study a couple of years ago, they reported that the City should not promote more low and moderate housing in the downtown area. She stated that she would be happy to find a copy of that report and give it to Mr. Whitesides along with the new Council members who were not on City Council when the study was done.

Mr. Jim Barrett, Staff Attorney for Pisgah Legal Services, stated that he did not think that the loan pool would really help low and moderate income people. He felt that there was no guarantee that low and moderate income people would be hired as a result of the business development loans. He said that it only required that the majority of those jobs are made available to low income people. He said that he was sure the City and others had best intentions, but low income people were just not getting those jobs. He said that the jobs created would probably be low wage jobs and those are already available in the local economy. He felt that all the paperwork for the loan program is geared toward business and nothing is geared toward housing. He stated that they are opposed to money targeted for low income people not going to low income people.

There was some discussion held relative to the range of low and moderate income and it was narrowed down to approximately $15,250 to $24,400 annually for a family of 4.

Upon inquiry of Councilman Price, it was stated that the applicant would have to have 10% of the loan in cash, 40% of the loan would come from the loan pool, and 50% would be either a bank loan or some other source (church, private investors, etc.)

Upon inquiry of Councilman Ellison, Mr. Barrett stated that the goal of the Pisgah Legal Services was to alleviate poverty through legal means. Councilman Ellison stated that he was glad that Pisgah Legal Services existed because they are the voice of the poor people.

Mayor Michalove thanked the Task Force members and Mr. Barrett and stated that this matter would be brought back up again when Council decides how to allocate the money.

C. Community Development report relative to scheduling a public hearing for the submission of a final statement of community development objectives and projected use of funds to the Department of Housing and Urban Development for Community Development Block Grant entitlement funds for 1990-91 for May 22, 1990.

Mr. Marvin Vierra, Director of Community Development, said that the City anticipates receiving $965,000 through the CDBG entitlement program for 1990-91. He said that the total budget including $58,000 of program income will be $1,023,000. He said that a public hearing was held on May 14, 1990, in the Montford community to receive citizen participation in the proposed program. He said that the majority of the people were concerned about the amount of administrative costs associated with carrying out the CDBG program and they felt that administrative costs should not be funded from block grant funds.

There was some discussion relative to the actual items which come under the heading of administrative costs. Mayor Michalove stated that if we don't pay administrative costs out of the CDBG funds, the City Manager will have to find other sources in which to pay these costs.

Councilman Ellison questioned Mr. Vierra about how much of the $515,354 for the Head of Montford project would be spent for housing and street and sidewalk repairs. He asked that more information be available on the housing issue and that the City look to see if some of the street and sidewalk repairs could come out of the bond money already approved by the voters.

Upon inquiry of Mayor Michalove, Mr. Vierra stated that he would have available to Council a detailed budget on all the projects proposed in the statement of objectives.

Upon inquiry of Councilman Ellison relative to an extension of the May 31 deadline for the application, Mr. Vierra said that the approval for the extension would have to come from the HUD Central Office which is in Washington, D.C.. He suggested submitting the application on time and later amending the application if need be.

Councilman Ellison moved to set the public hearing for the submission of a final statement of community development objectives and projected use of funds to the Department of Housing and Urban Development for CDBG entitlement funds for 1990-91 for May 22, 1990. This motion was seconded by Vice-Mayor Moore and carried unanimously.

Mayor Michalove stated that the City Council will set a time aside for a work shop between now and May 31, 1990, in order to deal with the items discussed today.

D. Affirmative Action Report.

Ms. Pam McGrayne, Personnel Director, stated that the City adopted the Affirmative Action Plan on June 22, 1988, and in September, 1989, the first annual progress report was presented. She proceeded to highlight the employment goal progress report.

Councilman Bratton voiced concern over the rule of 3 and felt that it was a barrier in the Affirmative Action Plan. She felt we needed to take some action, whether it be to meet with the legislators again or to look at the length of time on which some members of the Civil Service Board have served, etc. Ms. McGrayne stated that the rule of 3 factor was not a problem with the employment goals in the last 6 months.

Councilman Bratton felt that the Police Department needed to do more in terms of promoting minorities to lieutenants and above. She felt that there may be a problem with the way we do the testing in the City. She suggested meeting with the City Manager and letting him inform the Council on the kind of action the Council can take.

Councilman Ellison stated his frustration over the employment goal progress. He said that he would work with Mr. Martin Nesbitt to see if, and where, any amendments can be made to the Civil Service Law.

Upon inquiry of Councilman Ellison about the possibility of a program on how to take standardized civil service examinations, Ms. McGrayne said that a program was started last year of that type for police officers and firefighters.

Vice-Mayor Moore suggested the Council go on a retreat in the near future in order to look at the progress made during the first 6 months of their term.

City Manager Bean spoke in support of the Affirmative Action Plan stating, among other things, that the Plan did not even exist 2 years ago, there was no monitoring system, there was no recruitment plan, and there was no data on underutilized areas. He stated that the City now has all of the above items in progress and that we have made some significant hires since the adoption of the Plan.

E. Consideration of the granting of a massage therapist license.

Ms. Deborah Adams, Revenue Manager stated that pursuant to Chapter 17A of the Code of Ordinance of the City of Asheville, anyone seeking "the privilege of carrying on the business, trade or profession of masseur or masseuse" must submit specific information to the City Council and have their approval. Mr. Steve Cohen has applied for a masseurs license and has supplied the necessary documents. The appropriate City departments have no problem with issuing him this license but the Legal Division has requested that Mr. Cohen (1) obtain a local health certificate, (2) submit a $1,000 bond or $1,000 in cash, and (3) not list his residence address as his business address.

Councilman Ellison moved to grant Mr. Steve Cohen a masseurs license contingent upon him obtaining a local health certificate, him submitting a $1,000 bond or $1,000 in cash and him not listing his residence address as his business address. This motion was seconded by Councilman Bratton and carried unanimously.

F. Resolution No. 90-68 - Resolution authorizing the City Manager to secure through Insurance Service of Asheville law enforcement liability excessive coverage.

City Manager Bean summarized the resolution by stating that the City presently has five million dollars of excess liability coverage for its public officials and has similar five million dollar excess coverage for the Asheville Fire Department. He stated that the current limit of liability coverage for the Asheville Police Department is one million dollars and this resolution would authorize him to secure five million dollars of excess comprehensive liability coverage for law enforcement officers through Insurance Service of Asheville for $69,000.

Councilman Ellison moved for the adoption of Resolution No. 90-68. This motion was seconded by Vice-Mayor Moore and carried unanimously.

Resolution Book No. 18 at Page 136.

G. Asheville-Buncombe Community Relations Council Report.

Mr. Dwight Mullen reported to Council the Community Relations Council work program for the coming year. He emphasized the role of the Community Relations Council and how they get so much done due to the avoidance of confrontations. He stated that they are now expanding their jurisdiction into the County. He said they will be expanding their board representation and will work on educating individuals regarding gays and lesbians. He felt that the Community Relations Council plays a key position as liaison between the public and other agencies. He stated that the school issue, the continued progress of being liaison between the Police Department and the public and the expanded jurisdiction were all key issues the Community Relations Council was working on.

Mr. Herbert Edwards, Human Resources Manager for Bussman, and new member of the Community Relations Council, spoke about how glad he was to be on the Council.

Councilman Bratton stated that the City Council and the Community Relations Council have a responsibility to get together and make commitments to work together.

Mayor Michalove thanked the members of the Council for their hard work and for working on these complex issues.

V. CONSENT

A. Scheduling a public hearing on the zoning of the recently annexed R. L. Jordon Oil Company Inc. property (Hendersonville Road) for June 5, 1990.

Councillman Ellison moved to schedule the public hearing on the zoning of the recently annexed R. L. Jordon Oil Company Inc. property for June 5, 1990. This motion was seconded by Vice-Mayor Moore and carried unanimously.

VI. OTHER BUSINESS

A. Motion to amend Resolution No. 90-63 scheduling a public hearing on the intent to close a portion of Irving Street. The original resolution set the public hearing for May 29, 1990. The first amendment to the resolution scheduled the public hearing for June 5, 1990. This second amendment to the resolution will set the public hearing for June 12, 1990.

Upon motion of Vice-Mayor Moore, seconded by Councilman Price, the public hearing on the intent to close a portion of Irving Street is set for June 12, 1990. This motion was seconded by Councilman Price and carried unanimously.

B. Resolution No. 90-96 - Resolution authorizing the City Manager to execute an agreement with Deloitte & Touche for auditing services for the Fiscal Year ending June 30, 1990.

City Manager Bean stated that a committee consisting of Mayor Michalove, Councilmen Price and Ellison and several City staff members interviewed three audit firms to conduct the City's annual audit. McGladrey & Pullen, Deloitte & Touche and KPMG Peat Marwick were interviewed. The firm of Deloitte & Touche has been recommended by the committee and staff to perform the City's annual audit this year in the amount of $36,400.

Vice-Mayor Moore moved to adopt Resolution No. 90-96 accepting the recommendation of the committee and staff to hire the firm of Deloitte & Touche to perform the City's annual audit in the amount of $36,400. This motion was seconded by Councilman Price and carried unanimously.

Resolution Book No. 18 at Page 137

C. Report on Sign Survey

City Manager Bean handed out to Council a sample of what the City will be generating relative to the survey done on signs as a result of the adoption of the sign ordinance. The sheet was for on-premise signs for the north area. The City Manager asked Council if they would prefer to see the total report before they start sending out non-confirming letters (which would take 1-2 more weeks) or if they want staff to start sending out the nonconforming letters as the reports are finalized.

Councilman Ellison suggested that we send out letters to the businesses that are in compliance too, not only the businesses that are not.

Upon inquiry of Vice-Mayor Moore about a postcard type notice for those businesses in compliance, City Manager Bean said that a letter could easily be sent out stating compliance.

Upon inquiry of Councilman Price, City Manager Bean said that he would check to make sure that if a business was sent a nonconforming letter, that the letter would state the reason why. Councilman Price asked to see a sample of the letters that will be sent.

Mayor Michalove stated in order to try to avoid any lawsuits because of the nine month frame, the Council would need to check with City Attorney William Slawter to see if there was any way that the Council could readopt the sign ordinance giving the Council more time within which to work on compliance vs. noncompliance issues. He felt there would be significant interest of the community and the Council will need the additional time to discuss the issues.

Mr. Mike Plemmons, with the Council of Independent Business Owners, stated that most businesses do not know whether they comply with the new sign ordinance or not.

After some discussion, it was the consensus of Council to have the City Manager prepare a sample letter notifying businesses that are in compliance with the sign ordinance and a sample letter notifying the businesses that are not in compliance and let those letters be approved by the Council before sending them out.

City Manager Bean said that he would have the full report to the Council with the sample letters.

D. Leni Sitnick - Request for Sidewalks

Ms. Leni Sitnick requested the Council to look at the possibility of putting in sidewalks on Edgewood Road and on Weaver Boulevard.

City Manager Bean said that on Edgewood Road, there in no dedicated right-of-way and most of the utilities would have to be moved. He said the logistics of putting sidewalks in on Edgewood Road are not good.

City Manager Bean stated that he would have staff look into the possibility of putting in sidewalks on Weaver Boulevard and the cost associated with that.

Councilman Price stated that a bikeway is proposed for Weaver Boulevard and Ms. Sitnick said that a bikeway may be adequate.

E. Claims

City Manager Bean said that for the week ending May 11, 1990, the following claims were received: Cheryl McKinney (Water); Richard Hyatt (Police); Larry Penley (Streets); and Dennie Martin (Downtown Development). He said that the claims have been referred to the appropriate insurers for investigation.

ADJOURNMENT

Mayor Michalove adjourned the meeting at 7:15 p.m. and stated that the Council would go into executive session.

William F. Wolcott Jr.
CITY CLERK

H. W. Michalove
MAYOR

Tuesday - May 22, 1990 - 4:00 p.m.

Regular Meeting

Present: Vice-Mayor William G. Moore, Presiding; Councilmen Mary Lloyd Frank, Eugene W. Ellison, William W. Estes and Norma Price; City Attorney William F. Slawter; Assistant City Manager Charles Penny; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: Mayor Kenneth M. Michalove, City Manager Douglas O. Bean and Councilman Wilhelmina Bratton

INVOCATION

The invocation was given by Councilman William Estes.

SPECIAL NOTES

1. Vice-Mayor Moore stated that Mayor Michalove and City Manager Bean were in Myrtle Beach, South Carolina, presenting the City of Asheville's proposal to the Southern Conference Basketball Tournament.

2. Vice-Mayor Moore stated that if there was anyone present at the meeting relative to the rental of City property to Billy Reece, that that item has been re-advertised for June 5, 1990.

APPROVAL OF THE MINUTES

Upon motion of Councilman Frank, seconded by Councilman Price, the minutes of the May 15, 1990, City Council minutes were approved unanimously.

I. PROCLAMATIONS

A. Proclamation - "Wimpledon Celebrity Tennis Tournament Weekend" - May 25 - 27, 1990.

Vice-Mayor Moore proclaimed the weekend of May 25 - 27, 1990, as "Wimpledon Celebrity Tennis Tournament Weekend" in the City of Asheville.

B. Proclamation - "Rape Prevention Month" - June 1990.

Vice-Mayor Moore proclaimed June, 1990, as "Rape Prevention Month" in the City of Asheville and presented the proclamation to Ms. Leigh Dudasik.

C. Glad Bag-A-Thon Presentation

Ms. Janie Wilson, from Quality Forward, thanked the City Council and City staff, particularly the Sanitation Division and the Parks, Recreation and Public Facilities Department, for all their help and support in this year's Glad Bag-a-Thon. She stated that 9,000 pounds of trash was picked up this year. She presented awards to a couple from Kenilworth, Ms. Myra Fuller, from the Montford Community Club, Ms. Becky Tenpenny, from the Murphy-Oakley Community Center, and Ms. Iola Byers, from the Burton Street Community Center.

II. PUBLIC HEARING

A. Public hearing relative to submission of a final statement of objectives and projected use of funds to the Department of Housing and Urban Development for Community Development Block Grant entitlement funds for 1990-91.

Vice-Mayor Moore opened the public hearing at 4:18 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing and presented the affidavit of publication.

Mr. Marvin Vierra, Director of Community Development, said that the City anticipates receiving $965,000 through the CDBG entitlement program for 1990-91. He said that the total budget including $58,000 of program income will be $1,023,000. He said that this was the second public hearing on this matter - the first one being held on May 14, 1990, in the Montford community.

Upon inquiry of Councilman Estes relative to what percentage of the budget would be used for new housing or renovation, Mr. Vierra stated that new housing construction is eligible on a very limited basis and that no percentage has been set aside just for those activities. Councilman Estes said that there was a need for elderly housing renovations and new housing.

Councilman Estes asked if the $30,000 budgeted for comprehensive planning could be used for home renovations. Mr. Vierra said that the $30,000 budgeted was for one staff person in the Planning Department.

Upon inquiry of Councilman Frank relative to downtown affordable housing, Mr. Vierra stated that a study was done showing a market for affordable housing in downtown and that this is a new activity.

Upon inquiry of Councilman Ellison relative to the number of houses in Montford being burned and if a study has been done to replace those structures, Mr. Vierra said that they are presently working on putting structures on those vacant lots. Councilman Ellison stressed the importance of redeveloping those areas for low and moderate income people.

Councilman Estes asked questions relative to acquiring land with CDBG funds.

Ms. Cindy Weeks, Mountain Housing Opportunities, stressed the importance of the Community Development office working with nonprofit housing agencies and said that working together with the City is a very positive trend and hoped that relationship could continue.

Mr. Lewis Kraus, Director of Habitat for Humanity, spoke in support of legislation that would broaden the scope of CDBG funds to acquire new house construction money. Councilman Ellison suggested that Mr. Kraus talk to Congressman Clarke for more information on this pending legislation.

Mr. Lee Creede, President of Neighborhood Housing Services ("NHS"), spoke in support of the $30,000 presently budgeted for NHS. He stated that in their first 6 months of operation in the target area of Montford, they have received 59 requests for services. Councilman Ellison suggested that NHS help with the burned out structures in the Montford area.

At this time, 4:55 p.m., Vice-Mayor Moore called a 10 minute recess in order for Council to view a live telecast of the news conference on the status of whether or not Asheville would retain the Southern Conference Basketball Tournament for next year.

At 5:05 p.m., Vice-Mayor Moore reconvened the meeting.

Mr. Ernie Thurston, Vice-Chairman of Neighborhood Advisory Committee, spoke in support of the Head of Montford program. He stated that it has been in operation for 5 years and the program is now starting to see results. He said that of the $515,000 presently budgeted for this program, 10% is for administration. He said that since they have money left over in their administration budget from last year, they support the $51,500 going into more grants and loans for the program this year. He said that this year's administrative costs would be taken out of the left over money from last year. He said that there is a large pool of rehabilitation money available.

Mr. Jim Barrett, Staff Attorney for Pisgah Legal Services, stated that CDBG funds should be spent to benefit low and moderate income people directly. He said that there was a

critical need for affordable housing in Asheville. He handed a percentage sheet to Council members showing the percentages of different activities. He felt that there was no guarantee that low and moderate income people would be hired as a result of the business development loans. He said that it only required that the majority of those jobs are made available to low income people. He supported money going to the Housing Authority, NHS and Habitat for Humanity in order to rehabilitate and construct low and affordable housing. He said that the administrative costs should be paid out of the general fund budget and use the $123,000 budgeted for administrative costs to benefit low and moderate income people. He said that a system should be developed so that the community, Council and agencies know what to expect from program income.

Upon inquiry of Mr. Barrett relative to the Magnetics loan, Mr. Vierra explained the UDAG loan repayment procedure stating that UDAG loan replacements are not CDBG program income.

At this time, 5:25 p.m., Vice-Mayor Moore announced that the Southern Conference Basketball Tournament will be returning to Asheville for the next 2 years.

Mr. Scott Dedman, 209 Cumberland Avenue, explained the range of low and moderate income stating that it was approximately $15,250 to $24,400 annually for a family of 4. He also spoke in support of using the administrative costs going to benefit low and moderate income people and also supported CDBG funds being used for new construction.

A student stated that she observed Martin Luther King Jr. Park (the "Park") being used by mostly people who did not look like they were from the low and moderate income brackets and observed the same thing from some apartments which were built above the tunnel.

Councilman Price said that the Park was not built with CDBG funds and CDBG funds have not been used to build apartments.

Councilman Ellison said that he felt the Parks, Recreation and Public Facilities Department should fairly distribute the setting of games in the Park enabling everyone to use it.

Upon inquiry of Ralph Bishop, Mr. Larry Holt, Executive Director of the Housing Authority, explained how the relocation activities take place and what options are available to the people involved.

Mr. Larry Linney, 36 Elizabeth Street, spoke in support of the continued funding of the Head of Montford program. He also spoke in support of small business development from the downtown loan pool.

Mr. Curtis Venable, 95 Cumberland Avenue, questioned the use of CDBG funds not being used for the Park. Mr. Holt explained that CDBG funds were only used to prepare the site for the building of the Park.

Ms. Lennie Sitnick spoke in support of the Community Development programs and stated that they needed to be looked at carefully until they were concluded.

Mr. Larry Holt, stated that he was proud of the cooperation and assistance among the nonprofit organizations, the Housing Authority and the Community Development Division.

Vice-Mayor Moore closed the public hearing at 5:56 p.m. and stated that the Council would continue this topic at its meeting on Friday, May 25, 1990, at 5:00 p.m., in the Council Chambers.

III. OLD BUSINESS

A. Third and final reading of Ordinance No. 1849 - An ordinance rezoning property on Shiloh Road.

Vice-Mayor Moore said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

On a roll call vote of 5-0, Ordinance No. 1849 passed on its third and final reading.

Ordinance Book No. 12 at Page 121.

B. Consideration of Planning and Zoning Commission's recommendation relative to a group development review - Park Avenue - Phase II.

Vice-Mayor Moore stated that at the May 8, 1990, the developer, Chuck Brown, of Park Avenue - Phase II, requested Council to postpone any action until he had an opportunity to weigh his options.

Ms. Julia Cogburn, Planning Director, stated that Mr. Brown has now requested that the City Council remand this group development back to the Planning and Zoning Commission. Mr. Brown plans to make revisions to the site plan and to work with City staff for a favorable recommendation. She said that in checking with the Legal staff, remanding it to the Planning and Zoning Commission is an appropriate procedure.

Councilman Ellison moved to remand this item to the Planning and Zoning Commission upon the developer's request. This motion was seconded by Councilman Estes and carried unanimously.

IV. NEW BUSINESS

A. Presentation of the 1990-91 Annual Operating Budget.

Mr. Robert Wurst, Audit/Budget Director, presented the 1990-91 annual operating budget and highlighted major areas. Among other things, he said that a tax increase from 54 cents to 58-1/2 cents was included in this budget but that most residents would not see this increase if their property valuation was not increased more than 30% by the current valuation.

Councilman Ellison moved to schedule a public hearing on the budget for June 5, 1990. This motion was seconded by Councilman Price and carried unanimously.

B. Resolution authorizing the City Manager to sign a letter of intent between the City of Asheville and Motorola, Inc., preparatory to the purchase of a two-way radio system as bid by Motorola, Inc., in November 1989.

Mr. John Miall, Director of Risk Management, gave a brief history relative to this request. He said that in November of 1989, Motorola, Inc., was selected as the successful bidder for upgrading the City's two-way communication system and that funds have been budgeted for this program. He said that since then, Motorola has addressed major technical concerns regarding its proposal. He said that this resolution would state the City's good intentions to purchase the system subject only to final negotiations between the vendor and the City and its consultant for delivery of that system.

It was the consensus of Council to continue this item until the meeting on May 25, 1990, in order to give them time within which to study the information provided at this meeting.

C. Appeal of Dillard Searsey from the decision of the Disability Review Board for Asheville Police Officers and Firefighters.

City Attorney stated that Mr. Dodd, attorney for Mr. Searsey, has agreed that this be postponed until a later date.

Councilman Price moved to postpone this matter at this time and reschedule it for a later date. This motion was seconded by Councilman Estes and carried unanimously.

D. Appeal of Charles T. Parker from the decision of the Disability Review Board for Asheville Police Officers and Firefighters.

City Attorney stated that Mr. Ferikes, attorney for Mr. Parker, has agreed that this be postponed until a later date.

Councilman Price moved to postpone this matter at this time and reschedule it for a later date. This motion was seconded by Councilman Estes and carried unanimously.

V. CONSENT

None

OTHER BUSINESS

A. Letter received by Councilman Ellison relative to timekeeping procedures.

Councilman Ellison stated that he has received a letter from some City employees relative to timekeeping procedures.

Assistant City Manager Charles Penny stated that he was working with the Police Chief and Personnel Director on this matter and would be happy to report their findings to him when the report was concluded.

B. Southern Conference Basketball Tournament.

City Manager Douglas O. Bean, who had just returned from Myrtle Beach, South Carolina, gave a status report to the Council about his trip. He praised former Mayor W. Louis Bissette, Jr., who is Chairman of the Asheville Sports Committee, and present Mayor Ken Michalove for their excellent job in presenting the City of Asheville's proposal. He did state that the Southern Conference Basketball Tournament will be staying in Asheville for another two years.

Upon request of Councilman Ellison, City Manager Bean said that he would be happy to provide Council with a summary of the commitments relative to the tournament.

C. Claims.

Assistant City Manager Penny stated the following claims were received for the week ending May 18, 1990: Janie Bumgardner (Water); John Gull (Water); and Michael Medford (Sewer). He said that these claims have been referred to the appropriate insurers for investigation. He said that the City was not served with any summonses during this week.

VII. ADJOURNMENT

Councilman Frank moved to recess the meeting (6:45 p.m.) until Friday, May 25, 1990, at 5:00 p.m. in the Council Chambers. This motion was seconded by Councilman Price and carried unanimously.

William F. Wolcott
CITY CLERK

H. M. Nicholson
MAYOR

Friday - May 25, 1990 - 5:00 p.m.

Continued Meeting of May 22, 1990

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; , Councilmen Eugene W. Ellison, William W. Estes, Wilhelmina B. Bratton, and Norma Price; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: Councilmen Mary Lloyd Frank

Resolution No. 90-70 - Resolution authorizing the City Manager to sign a Letter of Intent between the City of Asheville and Motorola Inc. preparatory to the purchase of a two-way radio system as bid by Motorola, Inc. in November, 1989

The City Manager explained that for the past five (5) years the City has been experiencing serious problems with its communication system. In order to solve the problems a communication consultant was hired and his recommendation was to purchase a 800 MgHz trunked radio system. Bids were requested and Motorola, Inc. was the only responsive bidder. Since the bid opening, technical negotiations between the City and Motorola have taken longer than expected and in order to secure the bid prices Motorola is asking for this Letter of Intent. The City Manager advised the Council that sufficient funds were available within the CIP Program and the City would proceed with the contract as soon as everything was in order.

Mayor Michalove stated that Council had been furnished with a copy of the resolution and it would not be read in its entirety.

Councilman Ellison moved to adopt Resolution No. 90-70. This motion was seconded by Vice-Mayor Moore and carried unanimously.

Resolution Book No. 18 - Page 138

Resolution No. 90-71 - Resolution authorizing submission of Final Statement of Community Development Objectives for FY 91 to the Department of Housing and Urban Development

Mayor Michalove asked the City Manager to review the Community Development Program for the last five (5) years and to present the staff recommended CDBG Entitlement Budget for 1990-91.

On the completion of the City Manager's presentation and after a lengthy discussion on the serious need for additional funding of low income housing in the City, Councilman Ellison moved to adopt the resolution using the staff recommendation of $965,000 and to commit $500,000 from additional program income and surplus funds

for the low income housing program. Councilman Estes seconded this motion.

Vice-Mayor Moore proposed as an amendment, that the Asheville Housing Authority be requested to make recommendations of particular projects and expenditures for the $500,000 and by August 1, 1990 they prepare a report for Council's consideration.

Councilman Ellison and Estes accepted Vice-Mayor Moore's amendment and the resolution passed unanimously.

Resolution Book No. 18 - Page 139 - 140

VII. ADJOURNMENT

Mayor Michalove then declared the meeting adjourned.

William F. Wolcott
CITY CLERK

W. W. Michalove
MAYOR

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DEPARTMENT OF CULTURAL RESOURCES

DIVISION OF ARCHIVES AND HISTORY

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DEPARTMENT OF CULTURAL RESOURCES

DIVISION OF ARCHIVES AND HISTORY

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Tuesday - June 5, 1990 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Councilman Bratton.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the minutes of the May 22, 1990 meeting as submitted.

I. PROCLAMATIONS:

A. Proclamation - Management Week - June 4 - 9, 1990

Mayor Michalove proclaimed the week of June 4-9, 1990 as "Management Week" and presented the proclamation to Greg Halford and Carol Hamlet with the National Management Association.

B. Proclamation - "Housing Authority of the City of Asheville Week" - June 10 - 16, 1990 -- "Housing Authority of the City of Asheville Day" - June 12 1990

Mayor Michalove proclaimed the week of June 10 - 16, 1990 as "Housing Authority of the City of Asheville Week" and June 12, 1990 as "Housing Authority of the City of Asheville Day" and presented the proclamations to Mrs. Shook, Chairman of the Housing Authority; David Jones, Executive Director; Annette Coleman and Mabel Hopkins, Housing Authority Commissioners.

Mrs. Shook outlined the events taking place during Housing Authority Week.

Mrs. Shook also presented the City with a check in the amount of $42,650 as payment-in-lieu of taxes.

II. PUBLIC HEARINGS:

A. Public hearing relative to zoning property located on U. S. 25 (Petition of R. L. Jordon Oil Company, Owner)

Ordinance No. 1853 - Ordinance zoning property located on U. S. 25 (Petition of R. L. Jordon Oil Company, Owner)

Mayor Michalove said the Asheville Planning and Zoning Commission on May 2, 1990, reviewed and approved unanimously the new zoning classification of Commercial Service (CS) to parcel recently annexed south of the current city limits.

Mayor Michalove opened the public hearing at 4:25 p.m.

The City Clerk presented the notice to the public setting time and date for the public hearing and the affidavit of publication.

Carol Alberice, from the Planning Department, said the Planning and Zoning Commission unanimously approved the zoning of the property to Commercial Service. She reviewed surrounding uses and zoning. She said the Commercial Service zoning is comparable with the Limestone Township zoning. She said the intended use of the property is for a restaurant. She said the zoning would require buffering in accordance with the buffering ordinance. She showed a video of the property in question.

Winston Pulliam, owner of the property, said since this has been a long process for the annexation and zoning he is requesting three readings of the ordinance at today's meeting.

Mayor Michalove closed the public hearing at 4:30 p.m.

Mayor Michalove said the ordinance was previously presented to members of Council and it would not be read.

Councilman Estes moved for the adoption of Ordinance No. 1853. This motion was seconded by Councilman Price.

On a roll call vote of 7-0, Ordinance No. 1853 passed on first reading.

Councilman Bratton moved to suspend the rules and proceed to the second reading of Ordinance No. 1853. This motion was seconded by Vice-Mayor Moore and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1853 passed on second reading.

Councilman Bratton moved to suspend the rules and proceed to the third reading of Ordinance No. 1853. This motion was seconded by Vice-Mayor Moore and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1853 passed on third and final reading.

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B. **Public hearing relative to amending zoning of property located on Royal Pines Drive and Sweeten Creek Road (Petition of Roger N. Chipman and adjacent property owners).**

Mayor Michalove said the Asheville Planning and Zoning Commission on April 4, 1990, reviewed and recommended denial of rezoning Ward 7, Sheet 93, Lots 46 (eastern half only), 59, 60 61, 62, 64, 66, 72, and 77 (eastern half only) (161 Royal Pines Dr. and portions of Sweeten Creek Road) from R-1 Residential District to CG Commercial General.

Mayor Michalove opened the public hearing at 4:34 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Carol Alberice from the Planning Department presented the rezoning request. She said there are nine (9) properties involved in the rezoning request. She said the Planning Staff and the Planning and Zoning Commission recommended denial of the rezoning request stating that the surrounding properties are R-1 residential and the rezoning is not in accordance with the Comprehensive Use Plan and the rezoning would be infringing upon residential properties. She said the property was annexed in August, 1988 and the current zoning is the same as originally zoned by the Limestone Township. She said the petitioner appealed the decision of the Commission to Council. She showed a video of the property in question. She said the Planning Department received a number of calls in opposition to the rezoning.

Roger Chipman, 450 Emma Grove Road, Fletcher, petitioner, gave a lengthy presentation in support of the rezoning. He said the property is under utilized. He also presented a petition with approximately 100-115 signatures in support of the rezoning. He presented

maps showing the properties in question in relationshi to the 2010 Comprehensive Plan.

Mike Moser, Chairman of the Planning and Zoning Commission, reiterated that the rezoning would be an infringement upon the residential neighborhood and the Commission felt there is adequate commercial property available in the area.

The following individuals spoke in support of the rezoning:

George H. Johnson, Jr. - Attorney
Mary Chipman, Co-owner of the property in question. Resident at 14 Tree Top Road
Barbara Edans, 3661 Sweeten Creek Road, Arden Reading Clinic
Mr. Edans, 3661 Sweeten Creek Road

The following individuals spoke in opposition to the rezoning:

Tom Morrissey, 48 Cherry Street, Royal Pines
Jane Heath, 242 Birch Lane
Thurland Lance, 45 Cherry Street, Royal Pines
J. O. Williams, 60 Cherry Street

Mayor Michalove closed the public hearing at 5:46 p.m.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Price moved to accept the recommendation of the Planning and Zoning Commission to deny the rezoning request. This motion was seconded by Vice-Mayor Moore and carried unanimously.

C. **Public hearing relative to revising the landscaping plans for Overlook Village.**

Mayor Michalove said the revisions to Overlook Village landscape plans dated 8/2/89 were denied. The Planning and Zoning Commission reaffirmed landscape plans originally drawn on 3/14/89 and approved on 3/16/89 at a special meeting of the Commission.

Mayor Michalove opened the public hearing at 5:50 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Carol Alberice from the Planning Department reviewed the history of the Overlook Village Group Development plan including landscaping plans. She said the developers are currently operating from landscape plans that were not approved and consist of major differences from plans that were approved on 3-16-89. She showed a video of the property in question as it related to the landscape plan. She also presented maps showing the detailed difference of the two landscape plans.

Ms. Alberice also noted that the Soil Erosion Division has indicated that the developer is in violation of the Erosion Control plan in that inferior materials are on the fill slopes. She said they are being required to remove the inferior materials and install 4" of clean fill material and to submit soil testing for stabilization and compaction.

After a lengthy discussion, Councilman Price moved that the Overlook Village landscape plan be remanded to the Planning and Zoning Commission for approval in order to work out a compromise decision with the developers and that the Planning and Zoning Commission schedule a special meeting to hear this matter as soon as possible (meeting to be held on June 13, 1990). This motion was seconded by Vice-Mayor Moore and carried unanimously.

The City Attorney noted that the developer could appeal the decision of the Planning and Zoning Commission to City Council in the future if the need arises.

D. **Public hearing relative to City of Asheville Annual Budget for 1990-91.**

Mayor Michalove opened the public hearing at 6:40 p.m.

The City Manager said the proposed budget for 1990-91 reflects a 58.5 cent tax rate, a 4.5 cent hike above the 54 cents that is equivalent to the current rate of 70 cents following revaluation. He said the proposed budget contains personnel and capital cuts.

Mike Plemmons, with the Council of Independent Business Owners, said his organization established a Budget Committee consisting of 14 members. He said they had several questions relative to the proposed budget. He asked about the Burke Utilization Study, the Consultant for Biltmore, and the cost for consultants in the past five (5) years and the upcoming years including their names and how much was paid to each, the cost for CPA firms last year and for the proposed budget.

The City Manager said the Burke Utilization Study has been completed. He said the study was initiated by the

Water Department to evaluate staffing and equipment and it was determined that the study should also be done in the Public Works Department. He said the study is now being implemented and will show cost savings.

He said the consultant for Biltmore deals with the Biltmore Village Historic District.

He said the costs for the consultants would be furnished to CIBO.

He said the 1989-90 budget for CPA firms was $30,000 and $36,000 for 1990-91.

Debra Price with CIBO asked about the Parks and Recreation Miscellaneous Budget being 44% over 1989-90 expected actual, Child Care Program in the Parks and Recreation Budget, why the number of employees had increased in the Planning Department, and why the number of employees had increased in the Personnel Department.

The City Manager said the Child Care Program is an in/out expenditure which is fee-supported.

He said there are no new positions allocated in the proposed 1990-91 budget. He said the number of employees increasing in the departments is because of reorganizations.

Ann Cross with CIBO asked if the number of employees reduced in the Public Works budget is due to lower services or more efficiency; the savings amount expected by the creation of the Risk Management Department, why the reduction in the number of employees for Code Enforcement, why park maintenance is over budget by 7% for 1989-90 and 10% in 1990-91.

The City Manager said the Public Works Department expects more efficiency; the savings amount expected by the Risk Management Department has not been determined but the City should have more control by being in-house; the reduction of Code Enforcement employees is due to sign survey technicians not being needed.

A discussion was held relative to salaries. Bob Wurst, Audit and Budget Director, said all salaries are currently included in the non-departmental budget but would be put in departmental budgets before June 30, 1990.

Harold Holcombe with CIBO asked about the Parking Garage deficit; the Fire Department Special Services Division; the Civic Center budget in relation to the

Southern Basketball Conference; and the budgeted amount for the Collection Division.

The City Manager said the Parking Garage revenues have not increased and utilization has not increased; explained the purpose of the Special Services Division for the Fire Department; the Civic Center budget reflects the Southern Basketball Conference; the Collection Division budget reflects a new computer system.

Robert Carr, 370 Midland Drive, Chairman of the Downtown Commission, requested that the Decorative Street Lighting program for downtown and contribution for economic partnership with downtown businesses not be cut from the budget. He said these elements for downtown are vital.

Pat McGuire also spoke in favor of retaining funding for the Decorative Street Lighting Program.

Janie Wilson, 22 Maywood Road, and Quality Forward, requested that the City consider curbside recycling since there is considerable interest in recycling in the community.

Mike Moser, with the CIBO Budget Committee, presented a spread sheet prepared by a CPA on the proposed budget for 1990-91. He requested that Council study this spread sheet. He also questioned a 11.2% increase for the current years budget. He said the CIBO Budget Committee will be an ongoing committee and would appreciate feed back from members of Council.

Mayor Michalove and members of Council thanked the members of the CIBO Budget Committee for their comments and said he appreciates their interest in the budget.

Mayor Michalove closed the public hearing at 7:26 p.m. and said the budget ordinance would be on the agenda on June 19, 1990.

III. OLD BUSINESS:

A. Sign Survey Report.

Julia Cogburn, Planning Director, presented the final and complete report for the Sign Survey. She highlighted the report by the number of signs and businesses surveyed and the number of signs and businesses that would be in compliance with the Sign Ordinance and the number that would be in noncompliance. She said letters would be sent to those businesses in noncompliance as well as those in compliance.

She thanked employees in her department for meeting th deadline on the sign survey.

Mayor Michalove suggested that a committee consisting of Vice-Mayor Moore, Councilman Mary Lloyd Frank, the City Attorney, the City Manager and the Planning Director be established to re-examine the sign ordinance in light of the survey. He said the committee should also consider readopting the sign ordinance in order to extend the time within which a court challenge could be filed since the ordinance was adopted on December 4, 1989 and the state law provides that any lawsuit contesting the validity of the ordinance be filed within 9 months.

Councilman Bratton moved to establish the Sign Ordinance Committee as recommended by Mayor Michalove. This motion was seconded by Councilman Ellison and after discussion carried on a voice vote of 6-1 with Councilman Ellison voting "no".

Councilman Ellison moved that two businessmen be added to the committee to provide a balance on the committee. This motion was seconded by Vice-Mayor Moore and after discussion the motion failed on a voice vote of 4-3 with Councilman Ellison, Councilman Estes and Mayor Michalove voting "aye".

It was noted that the committee would have the option of recommending that businessmen be added to the committee at a later date.

It was requested that the committee bring their recommendations to Council within the next two (2) weeks.

IV. NEW BUSINESS:

V. CONSENT:

A. Resolution No. 90-72 - Resolution authorizing the City Manager to execute an agreement with Billy G. Reese for the rental of City property located at Route 1, Bee Tree Road, Buncombe County, Swannanoa, North Carolina.

SUMMARY: The City of Asheville owns a house at Bee Tree Lake which has been occupied by Mr. Reese until his retirement. Mr. Reese wishes to continue his residence at that location, at a monthly rental rate of $225.00 or $2,700.00 annually.

B. Resolution No. 90-73 - Resolution authorizing execution of a cooperative agreement with the Department of Housing and Urban Development for a Fair Housing Assistance Grant.

SUMMARY: Funding in the amount of $4,000 will be provided by HUD for the fourth year of the Fair Housing Assistance Program administered under subcontract with the Asheville-Buncombe Community Relations Council.

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VI. OTHER BUSINESS:

Mayor Michalove thanked the City Manager and City Staff for their efforts during the telephone outage on June 2 and June 3, 1990.

CONVEYANCE OF PROPERTY TO HOSPITALITY HOUSE OF ASHEVILLE, INC.

The City Manager said on November 28, 1989 a resolution was adopted by City Council authorizing execution of a Community Development Agreement with Hospitality House of Asheville, Inc. for a transitional shelter for the homeless. On January 26, 1990, an Agreement was signed by the Mayor and the President of Hospitality House of Asheville, Inc. The agreement designated the Housing Authority of the City of Asheville as agent for the acquisition and disposition of property at 24 Grail Street to be rehabilitated for use as a transitional shelter for the homeless. The Housing Authority has acquired the property and combined it with Disposal Parcel 114 of the East End/Valley Street Community Improvement Program which adjoins 24 Grail Street. A price has been established for the entire site in accordance with State Statute regarding disposition to a nonprofit organization. The Housing Authority is prepared to convey the property to Hospitality House of Asheville, Inc. after approval from City Council.

Vice-Mayor Moore moved to convey the property as outlined by the City Manager to the Hospitality House of Asheville, Inc. subject to review and legal approval of the deed by the City Attorney. This motion was seconded by Councilman Ellison and carried unanimously.

INQUIRY OF COUNCILMAN ELLISON - FUNDING FROM CDBG FOR HABITAT FOR HUMANITY

The City Manager said the CDBG Agreement would be presented for amendment to include funding for the $30,000 for Habitat for Humanity in the near future. He said the amendment would require a public hearing process.

MAYOR MICHALOVE - PRESENTED PETITION RECEIVED FROM DR. STEVENS FROM RESIDENTS OF WINDSWEPT DRIVE - SEWER LINE

Mayor Michalove presented the attached petition he received from Dr. Stevens at the Health Department from residents of Windswept Drive requesting that the City assume its responsibility for maintenance of the present sewer line on Windswept Drive and to upgrade the line as necessary.

STEVE COHEN - MASSAGE THERAPIST - REQUEST

Steve Cohen, Massage Therapist, said he was granted a massage therapist license from members of Council on May 15, 1990. He requested that the provision that he submit a $1,000 bond or $1,000 in cash be waived since other similar professions do not require the bond.

Councilman Price moved that the request of Steve Cohen be studied by the staff and a recommendation brought back to Council. This motion was seconded by Councilman Estes and carried unanimously.

MIKE PLEMMONS - CIBO - RESOLUTION - BOARDS AND COMMISSIONS

Mike Plemmons presented a resolution of the Council of Independent Business Owners requesting Council to adopt a policy that any person sitting on a board or commission of the City of Asheville for more than six (6) consecutive years be required to vacate that position for at least two (2) years so that new persons might be appointed to those positions.

CLAIMS - UNITARIAN UNIVERSALIST CHURCH (SEWER) - WESTERN FREE WILL BAPTIST REST HOME (WATER) - BOBBY PRICE (WATER) - LINDA SMITH (SEWER) - MS. BENNIE WILKINS (WATER) - AUDREY HORTON (STREETS)

The City Manager presented claims received from Unitarian Universalist Church, Western Free Will Baptist Rest Home, Bobby Price, Linda Smith, Ms. Bennie Wilkins, and Audrey Horton.

Mayor Michalove referred the claims to the City Attorney for investigation and recommendation.

VII. ADJOURNMENT.

The meeting adjourned at 8:15 p.m.

W. M. Michalove
MAYOR

Miriam J. Wolcott
CITY CLERK

Tuesday - June 12, 1990 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

Invocation to be given by Councilman Frank.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the minutes of the June 5, 1990 meeting.

I. PROCLAMATIONS:

A. Resolution No. 90-77 - Resolution commending the North Carolina Department of Transportation, Division of Highways, for the highway wildflower plantings.

Mayor Michalove read the resolution stating that the highway wildflower plantings program has received rave reviews from volunteers, garden and civic groups. The wildflowers provide a source of pride to Asheville residents. This resolution commends the North Carolina Department of Transportation for this program and urges the continuation of the program.

Upon motion of Councilman Frank, seconded by Vice-Mayor Moore, Resolution No. 90-77 was unanimously adopted.

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Mayor Michalove presented the resolution to Gene Edmonds, Western Division Engineer for the North Carolina Department of Transportation.

II. PUBLIC HEARINGS:

A. Public hearing relative to closing a portion of Irving Street.

Mayor Michalove said a petition was received from David Thompson and wife, Betty Thompson, and the Grace Memorial Church of Asheville requesting that a portion of Irving Street be closed.

Mayor Michalove opened the public hearing at 4:12 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing.

Charles Penny, Assistant City Manager, requested that the public hearing be continued giving the Operating Departments an opportunity to review the closing of a portion of Irving Street to determine if the City needs to reserve any utility easements.

Councilman Ellison moved to continue the public hearing for one week, June 19, 1990, without further advertisement. This motion was seconded by Councilman Price and carried unanimously.

III. OLD BUSINESS:

A. Motion adopting the Water Authority Budget.

Mayor Michalove said the Water Agreement provides that the Water Authority, the Asheville City Council and the Buncombe County Board of Commissioners approve the Water Authority Budget. The Water Authority Budget was presented to members of Council on May 15, 1990.

Mayor Michalove indicated that the budget includes a Capital Improvement Program as well as day-to-day operations and members of Council reviewed the entire budget.

Councilman Frank moved for the approval of the Water Authority Budget as presented to members of Council on May 15, 1990. This motion was seconded by Councilman Bratton and carried unanimously.

B. Report on Sign Ordinance.

Mayor Michalove said on June 5, 1990 the City Council established a committee to review the Sign Ordinance.

Vice-Mayor Moore, Chairman of the Sign Committee, presented the following report:

"The meeting was held at 1:30 p.m. on Monday, June 11, in Asheville City Hall. Present were: Moore, Frank, Bean, Bryson, Cogburn.

The committee carefully analyzed the concerns enumerated in the mayor's memorandum of June 5 and the city attorney's memorandum of June 1. Other concerns not enumerated in the memoranda, also were discussed.

CONCLUSIONS

* That sufficient resources in terms of telephone lines, trained technicians, money and manpower are available to adequately handle questions from sign owners whose signs are not in compliance.

* That the sign ordinance, as adopted is enforceable.

* That in order to honor the mayor's commitment that an adequate window be provided for sign owners who want to file suit, mailing of the notices should proceed without delay.

* That revision of some parts of the sign ordinance may be desirable at a point in the future.

RECOMMENDATIONS

1. Mail the notices as speedily as practicable.

2. Require the Sign Administrator on or about Dec. 15, to make a complete report to council detailing the results of the first year's experience under the ordinance. This report should include an estimate of the cost of legally defending the ordinance. It also should include major complaints about the way the ordinance operated and any recommendations the Sign Administrator may have about revising the ordinance technically, substantively or both.

3. This report could serve as the basis for (a.) the appointment by the mayor of a Sign Ordinance Revision Committee that would operate on the City Council level, (b.) a decision to create a whole new Sign Ordinance Revision Commission, (c.) a decision to continue to handle any problems that arise administratively."

Vice-Mayor Moore moved to accept the report of the Sign Committee. This motion was seconded by Councilman Frank.

Councilman Ellison expressed concern that persons outside the city structure are not being involved in the process. He asked the City Attorney if the City could be financially liable for noncompliance signs and if this is considered a "taking" of property without compensation.

The City Attorney said this matter was addressed during the adoption of the Sign Ordinance and it was and still is his opinion under existing law that the ordinance is valid and the taking down of the noncompliance signs would not be a "taking" of property. He said a court challenge could answer this question.

Councilman Ellison said it is his understanding that several court cases in other cities are now pending on this matter and questioned whether or not it would be prudent to delay notifying businesses of noncompliance until these cases are decided. He said he was concerned about the financial impact this decision could have on the city.

Albert Sneed, Attorney representing Summey Outdoor Advertising Company, requested that Council proceed with the notifications as promised. He said his client feels the Sign Ordinance was enacted rapidly and the Sign Commission did not listen to the concerns of the Sign

Companies. He said the impact of the Sign Ordinance on the business community will be devastating. He said after the notices are mailed out and Council hears from the business community a forum could be held before September, 1990 to determine if the City Council needs to take further action on the Sign Ordinance.

It was noted that September 4, 1990 is the deadline for anyone filing a lawsuit regarding the Sign Ordinance.

Mike Plemmons, with Council of Independent Business Owners, requested that Council go ahead and mail the notices to businesses and to have a forum before September.

Ben Slosman, private business owner, also requested that the notices be mailed.

Upon inquiry of Mayor Michalove, Julia Cogburn, Director of Planning, said the notices could be mailed out within the next three (3) weeks.

After discussion, Councilman Ellison made a substitute motion to accept the report of the Sign Committee and that for the purpose of reviewing the complaints that arise from the sending out of the notices that a Sign Ordinance Review Committee be appointed by the Mayor to include the Sign Committee members as well as others. This motion was seconded by Councilman Estes.

After further discussion, Councilman Ellison and Councilman Estes withdrew their motion.

Councilman Price made a substitute motion to accept only Recommendation No. 1 of the Sign Committee that being, "mail the notices as speedily as practicable". This motion was seconded by Councilman Ellison and carried on a voice vote of 5-2 with Vice-Mayor Moore and Councilman Frank voting "no".

Councilman Price then moved that the Sign Committee, appointed by the Mayor, come back to Council within two (2) weeks with a recommendation for a timetable for a forum, to be held in July, 1990; as well as a recommendation on the type of committee that should be established, their purpose, and the appointing authority. This motion was seconded by Councilman Ellison which was unanimously adopted.

IV. NEW BUSINESS:

A. Resolution No. 90-74 - Resolution rescinding Resolution No. 88-10 - Resolution recognizing years of service for retiring Asheville Police Officers by presentation of the badge and gun carried during their career.

Mayor Michalove said the City is in the process of acquiring new automatic pistols and the current pistols can be used as trade-ins. Due to the cost of the new pistols it does not appear that it would be cost effective to award guns to retirees.

The City Manager noted that the police officers will still be presented their badges and they are being given the opportunity to purchase their pistols from the vendors.

Upon motion of Vice-Mayor Moore, seconded by Councilman Price, Resolution No. 90-74 was unanimously adopted.

Resolution Book No. 18 - Page 143

B. **Ordinance No. 1854 - Ordinance of the City of Asheville ("Grantor") authorizing the transfer of a Cable Television Franchise from United Artists Holdings, Inc., to UACC Midwest, Inc.**

The City Attorney said United Artists Holdings, Inc., is the holder of a franchise from the City of Asheville allowing the operation of Asheville Cablevision. United Artists Holdings, Inc., is restructuring its financing, and in connection with that restructuring, is transferring the assets of Asheville Cablevision to its subsidiary, UACC Midwest, Inc. Approval of the transfer is required by Section 23 of the franchise ordinance. UACC Midwest, Inc., is a subsidiary corporation owned by United Artists Holdings, Inc.

Councilman Ellison moved for the adoption of Ordinance No. 1854. This motion was seconded by Vice-Mayor Moore.

On a roll call vote of 7-0, Ordinance No. 1854 passed on first reading.

Joe Haight, General Manager of Asheville Cablevision, said since this is only a paperwork transaction he would request three readings on the ordinance at today's meeting.

Councilman Ellison moved to suspend the rules and proceed to the second reading of Ordinance No. 1854. This motion was seconded by Vice-Mayor Moore and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1854 passed on second reading.

Councilman Ellison moved to suspend the rules and proceed to the third reading of Ordinance No. 1854. This motion was seconded by Councilman Estes and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1854 passed on third and final reading.

Ordinance Book No. 12 - Page 127 - 128

C. **Resolution No. 90-75 - Resolution authorizing the Mayor to execute agreements with the N. C. Department of Transportation for highway projects near the Asheville Regional Airport.**

The City Attorney said the North Carolina Department of Transportation has requested certain rights of way and easements across property owned by the City of Asheville at the Asheville Regional Airport. These are in connection with State Project No. 6.804747 (Airport Road) and State Project No. 8.1950203 (N.C. 280 & I-26 Interchange). He said the execution of these agreements are only for entry and the amount of compensation for the rights of way will be negotiated at a later date.

Upon motion of Vice-Mayor Moore, seconded by Councilman Frank, Resolution No. 90-75 was unanimously adopted.

Resolution Book No. 18 - Page 144

E. **Ordinance No. 1855 - Ordinance for the levy and collection of business licenses taxes.**

The City Manager said the City's ordinance is in two parts. In one section the City sets rates and in the other the General Assembly sets the rates and regulations. He said state regulated items in the Revenue Ordinance needs to be revised in order to comply with changes mandated by the State to become effective July 1, 1990.

Members of Council requested information as to key changes being made in the ordinance and a determination why revenues will be decreased by $11,000. It was noted that this information would be furnished to Council prior to the second reading.

Councilman Ellison moved for the adoption of Ordinance No. 1855. This motion was seconded by Councilman Frank.

On a roll call vote of 7-0, Ordinance No. 1855 passed on first reading.

F. **Resolution No. 90-76 - Resolution authorizing the City Manager to amend the Technical Services contract (#88-84) with the Land-of-Sky Regional Council.**

Patty Tallerday, with the Planning Department, said the contract amendment extends period of performance for one year, to June 30, 1991 and increases the contract amount by $70,000. Contract amendment is needed for Land-of-Sky Regional Council to continue to perform the transportation FY 1991 Planning Work Program. She said the City's portion of funding would be $10,500.

Upon motion of Councilman Ellison, seconded by Councilman Price, Resolution No. 90-76 was unanimously approved.

Resolution Book No. 18 - Page 145

V. CONSENT:

VI. OTHER BUSINESS:

ADVERTISEMENT FOR SHINDIG ON THE GREEN

Mayor Michalove said Milkco, Inc. is now advertising Shindig on the Green on all their milk cartons. He showed members of Council a sample of the milk cartons. He expressed appreciation to Milkco, Inc. for this effort.

A. Group development action by the Planning and Zoning Commission

Mr. Gerald Green, Senior Planner, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. The action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. The following actions were taken by the Planning and Zoning Commission at their meeting on June 6, 1990:

1. Cottages at Richmond Hill Inn - 87 Richmond Hill Drive

Mr. Gerald Green, Senior Planner in the Planning Department, said that the Planning and Zoning Commission, at its June 6, 1990 meeting, reviewed and approved the site plan for the Cottages at Richmond Hill Drive, contingent upon the approval by City Council of a variance for a reduction in the required width of the landscaped buffer from 20 feet to 10 feet.

Councilman Price moved to schedule a public hearing relative to the Cottages at Richmond Hill Inn for June 26, 1990. This motion was seconded by Vice-Mayor Moore and carried unanimously.

2. Public Works Complex - South Charlotte Street

Mr. Gerald Green, Senior Planner in the Planning Department, said that the Planning and Zoning Commission, at its June 6, 1990 meeting, reviewed and approved the site plan for the Public Works Complex located on South Charlotte Street, contingent upon the following conditions:

1) Approval of driveway permit, as required, by NCDOT;
2) Approval by City Council of the closing of a portion of Beaumont Street and Dixon Alley;
3) Approval by City Council of a variance permitting a reduction in the required front setback; and
4) The developer (the City of Asheville) and the architect meet with representatives of Mt. Zion Baptist Church to discuss impacts of the project on the church.

Councilman Ellison moved to schedule a public hearing relative to the Public Works Complex for June 26, 1990. This motion was seconded by Vice-Mayor Moore and carried unanimously.

COMMENTS RELATIVE TO BUDGET FOR 1990-91

Diana Bilbrey encouraged members of Council to fund the "Downtown Street Lamps". She suggested that the street lamps be funded by sponsors for street lamps by banks, garden clubs, and civic clubs. She said each sponsors name could be placed on the

lamp. She said this would reduce the cost to maintenance and upkeep of the street lamps.

Paul Hensley, Chairman of the Asheville Transit Authority, expressed concern about the proposed cuts for the Transit Authority budget. He said these cuts would cause a decrease in service due to the elimination of a bus route. He said this would also cause the elimination of employees.

Mark Richards, Assistant Manager of Management, said the decrease in funding would be an overall degrading of the bus system. He said the transit system needs fund for marketing, i.e. radio announcements, flyers, new maps, new logo, in an effort to increase service. He said a decrease of $65,000 would be a net loss of one bus. He suggested that Council look at alternative funding methods.

Bob Wurst, Audit and Budget Director, reviewed the proposed Transit Authority budget. He said the budget has a 6.3% increase in operating expenses.

After discussion, it was decided that Vice-Mayor Moore, Council's liaison for the Asheville Transit Authority, meet with the City Staff and the Asheville Transit Authority to determine the overall effects of the budget cuts and to bring Council some recommendations.

CLAIMS - TINA ADAMS (TRAFFIC ENGINEERING) - L. R. CLAYTON (SEWER)

The City Manager presented claims received from Tina Adams and L. R. Clayton.

Mayor Michalove referred the claims to the City Attorney for investigation and recommendation.

RALPH BISHOP - LOTTERY SALES

Ralph Bishop again spoke to members of Council relative to the lottery sales at 704 Riverside Drive.

ADJOURNMENT - EXECUTIVE SESSION - LEGAL MATTER

Councilman Bratton moved that Council adjourn the meeting and meet in executive session to discuss a legal matter. This motion was seconded by Councilman Ellison.

The meeting adjourned at 6:10 p.m.

W. H. Michalove
MAYOR

William F. Wolcott
CITY CLERK

Tuesday - June 19, 1990 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Vice-Mayor Moore.

A moment of silence was also held in memory of Cornelis Hunt, Mayor Pro-Tem of Brevard, N. C. upon his recent passing.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the minutes of the June 12, 1990 meeting as submitted.

I. PROCLAMATIONS:

A. Resolution No. 90-78 - Resolution of appreciation for recent retiree, Harold Garland.

Mayor Michalove recognized Harold Garland and read the resolution which stated that Harold Garland has been with the City for 18 years. He worked in the Inspections Division of the Fire Department as a Building Inspections Assistant.

Upon motion of Councilman Price, seconded by Vice-Mayor Moore, Resolution No. 90-78 was unanimously approved.

Mayor Michalove presented the resolution to Mr. Garland.

Resolution Book No. 18 - Page 146

B. Resolution No. 90-79 - Resolution of appreciation for recent retiree, William Thompson.

Mayor Michalove recognized William Thompson.

Bob Hixon, Director of Inspections, read the resolution which stated that William Thompson has been with the City for 17-1/2 years. He worked in the Inspections Division of the Fire Department as an Electrical Inspections Specialist until he retired in June, 1990.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 90-79 was unanimously approved.

Mayor Michalove presented the resolution to Mr. Thompson.

Resolution Book No. 18 - Page 147

II. PUBLIC HEARINGS:

A. Continuation of a public hearing relative to the closing a portion of Irving Street.

Resolution No. 90-80 - Resolution closing a portion of Irving Street

Mayor Michalove said a petition was received from David Thompson and wife, Betty Thompson, and the Grace Memorial Church of Asheville requesting that a portion of Irving Street be closed. This public hearing was opened on June 12, 1990 but was continued until June 19, 1990 to determine if any water and/or sewer line easements are necessary. It has been determined that water and sewer line easements will be necessary and the proposed resolution provides for these easements.

Jim Ewing, Director of Public Works, said the resolution provides for the retention of a 10' wide easement for the water and sewer lines in the portion of Irving Street proposed to be closed. He said other than the retention of these easements the Public Works Department does not have a problem with the closing of this portion of Irving Street.

Mayor Michalove closed the public hearing at 4:24 p.m.

Upon motion of Councilman Ellison, seconded by Councilman Frank, Resolution No. 90-80 was unanimously approved.

Resolution Book 18 - Page 148-149

III. OLD BUSINESS:

A. Ordinance No. 1855 - Second reading of an ordinance for the levy and collection of business licenses taxes.

Mayor Michalove said this ordinance will revise the Revenue Ordinance to comply with changes mandated by the State to become effective July 1, 1990. He said the ordinance was read on first reading on June 12, 1990 and the staff had furnished members of Council with a detailed report on the revisions.

Mayor Michalove said this ordinance was previously read on first reading and would not be reread in its entirety.

On a roll call vote of 7-0, Ordinance No. 1855 passed on second reading.

Councilman Price moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1855. This motion was seconded by Councilman Frank and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1855 passed on third and final reading.

Ordinance Book 12 - Page 129 - 166

IV. NEW BUSINESS:

A. **Ordinance No. 1856 - Ordinance adopting the City of Asheville 1990-91 Annual Budget.**

The City Manager said the proposed budget reflects decisions made by Council through the Budget Worksession today. He said the budget provides for a 60-cent tax rate which is a 6-cent tax increase. He said the increase is needed for the City to be fiscally responsible. He said if Council increases taxes 6 cents this year, the new jobs and programs added to the city government that have to be maintained next year, plus inflation, employee pay increases, and continued growth, will require a 4-cent raise in 1991-92.

Mayor Michalove outlined the service enhancements included in the budget.

Councilman Bratton moved for the adoption of Ordinance No. 1856. This motion was seconded by Vice-Mayor Moore.

Gordon Peed, with the Council of Independent Business Owners Budget Committee, read a position statement from CIBO requesting no increase in taxes.

Barry Olin, owner and merchant in downtown; Chuck Tessier, incoming President for the Downtown Association; and Charlene Blevins of 88-1/2 N. Lexington

Avenue, thanked Council for the support and funding of downtown projects.

Rev. Pete Banyai, Chairman of the War on Drugs Commission, expressed concern that the budget does not provide any funding for the War on Drugs Commission. He made a strong appeal to members of Council to reconsider funding for the Commission.

Councilman Ellison said he was concerned that the budget requested by the War on Drugs Commission contains $67,000 in salaries and benefits for two staff members. He said fundings should address the problem in the community and suggested that the commission be on a volunteer basis like most other boards and commissions.

Rev. Banyai said he would have liked to have had the opportunity to address Council's concerns before a final decision was made on the budget.

Councilman Bratton said she would rather see the money for the Drug Commission go for police protection and programs in the city's housing projects.

Mayor Michalove said the Drug Commission could answer the concerns of Council about the program and Council could possibly reconsider the funding.

Chris Peterson, 136 Evelyn Place, spoke in opposition to the budget stating that he had reviewed the budget and feels the budget can be trimmed.

Pat Smith, Co-Chairman of the Streetscape Task Force, expressed appreciation for Council funding the lighting program for downtown.

Grace Pless expressed appreciation for Council funding revitalization of downtown.

Ralph Bishop spoke to Council about not funding the War on Drug Commission.

Laurie Masterson, requested that Council fund a small operating budget, in the amount of $200, for a Sister City Committee in an effort to promote the City of Asheville becoming a Sister City. She said other cities in North Carolina have sister cities. She also requested that Council sponsor a Council representative in the amount of $2,500, to visit a potential sister city in Russia.

Mayor Michalove said he would like to see funding for the Sister City program come from private sources.

On a roll call vote of 7-0, Ordinance No. 1856 passed on first and final reading.

Ordinance Book No. 12 - Page 167 - 170

V. CONSENT:

A. Resolution No. 90-81 - Resolution authorizing the City Manager to execute on behalf of the City of Asheville a contract with DAP Security, Inc. for School Crossing Guards.

SUMMARY: In September, 1989, the City of Asheville entered into a one year contract with D.A.P. Security to provide school crossing guards for all City schools. D.A.P. now wishes a two year contract so they will know how many guards and equipment they need to budget.

Resolution Book 18 - Page 150

B. Resolution No. 90-82 - Resolution adopting the Municipal Records Retention and Disposition Schedule and authorizing the Mayor to execute an agreement with the North Carolina Department of Cultural Resources to adopt the Schedule.

SUMMARY: In June of 1985, the City of Asheville adopted the North Carolina Department of Cultural Resources Municipal Records Retention and Disposition Schedule. This Schedule allows the destruction of certain municipal records after a specified retention period without the necessity of obtaining prior approval from the North Carolina Department of Cultural resources, Division of Archives and History. The adopted Schedule expires on the 25th day of June, 1990. The readoption of the schedule is therefore, necessary.

Resolution Book 18 - Page 151

C. Resolution No. 90-83 - Resolution of intent to close Academy and Center Streets and scheduling a public hearing for July 17, 1990.

SUMMARY: N. C. DOT designs for improvements to Hendersonville Road would result in excessive grades and additional right of way to connect Academy Street and Center Street to the new roadway. Dead ending each of these streets will eliminate the excessive grades and additional right of way acquisition and still provide access to Hendersonville road via Yorkshire and Fairview Streets.

Resolution Book 18 - Page 152-153

D. **Resolution No. 90-84 - Resolution authorizing the Chief of Police to execute a mutual aid agreement with the Atlantic Beach Police Department and the Sampson County Sheriff's Department.**

SUMMARY: The National Association of Attorneys General will hold a summer conference in Asheville from July 8 -11, 1990. The North Carolina Justice Academy is planning the conference. Three members of the staff of the Justice Academy are sworn officers. They are Steven Johnson and Dave Cloutier with the Atlantic Beach Police Department, and Earl Hardy, with the Sampson County Sheriff's Department. These three officers are going to coordinate the security detail for the conference. The majority of the security will be provided by the State Bureau of Investigation, aided by the Asheville Police Department. This mutual aid pact will give the three sworn coordinators full authority during the conference.

Resolution Book 18 - Page 154

Upon motion of Vice-Mayor Moore, seconded by Councilman Price, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

Claims - Industrial Truck Sales and Service (Water) - Grace Hess (Water) - Donald DeAndrea (Water)

The City Manager presented claims received from Industrial Sales and Service, Grace Hess, and Donald DeAndrea.

Mayor Michalove referred the claims to the City Attorney for investigation and recommendation.

CONTINUATION OF NEW BUSINESS

B. Appeal of Dillard Searcy - Disability Review Board

Vice-Mayor Moore announced that, since he had participated in the deliberations and decision of the Disability Review Board concerning the request of Mr. Searcy, he would ask to be excused from participation in the consideration of this matter by the City Council in order to avoid the possibility of a conflict of interest. Upon motion of Councilman

Bratton, seconded by Councilman Frank, the City Council voted unanimously to excuse Vice-Mayor Moore from participation in consideration of this matter.

Mr. Searcy was present at the City Council meeting for the presentation of his appeal, and was represented by his attorney, Gary A. Dodd. Following the presentation on behalf of Mr. Searcy, the City Council held an executive session to discuss the merits of Mr. Searcy's claim, which executive session was called for by motion of Councilman Ellison, seconded by Councilman Estes, and adopted unanimously by the City Council. Following deliberations in executive session, the City Council returned to open session and upon a unanimous vote of 6-0 voted to allow Mr. Searcy's appeal and grant him supplemental benefits, based upon Findings of Fact and Conclusions of Law to be prepared by the City Attorney and approved by the City Council. A copy of the transcript of proceedings is on file in the Office of the City Clerk.

VII. ADJOURNMENT.

The meeting adjourned at 8:00 p.m.

H. M. Nicholson
MAYOR

William F. Holcatt
CITY CLERK

Tuesday - June 26, 1990 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Mayor Michalove.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the minutes of the June 19, 1990 meeting noting one minor correction.

I. PROCLAMATIONS:

II. PUBLIC HEARINGS:

A. **Public hearing relative to the Public Works Complex.**

Mayor Michalove said the Asheville Planning and Zoning Commission on June 6, 1990, reviewed and approved the site plan with four (4) contingencies.

Mayor Michalove opened the public hearing at 4:12 PM

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Gerald Green, Senior Planner, said the City of Asheville proposes to construct the Public Works Complex on a 7 acre site located on South Charlotte Street. The complex will consist of 6 buildings with approximately 80,000 square feet under roof. Administrative offices, storage space, and maintenance facilities will be provided at the complex. A variance from the front setback requirements established by the Zoning Ordinance is requested to permit the development of the interior

storage yard. Development of the complex will require the closing of a portion of Beaumont Street and Dixon Alley. After reviewing the project plans and hearing comments from staff, the project architect, and neighboring property owners, the Planning and Zoning Commission recommended approval of the group development request with the following contingencies:

1) Approval of driveway permit, as required, by NCDOT;

2) Approval by City Council of the closing of a portion of Beaumont Street and Dixon Alley;

3) Approval by City Council of a variance permitting a reduction in the required front setback; and

4) The developer (the City of Asheville) and the architect meet with representatives of Mt. Zion Baptist Church to discuss impacts of the project on the church.

Mr. Green said the project also meets the Downtown Design Review criteria.

Charles Penny, Assistant City Manager, said a meeting was held on June 25, 1990 with representatives of Mt. Zion Baptist Church. He said they had no complaints about the Public Works Complex. He said they were assured that they would not have to constantly view the back of garbage trucks. He said the design plans and model were reviewed by the representatives of the church. He said it was announced at the meeting that Council would be conducting the public hearing at today's Council meeting.

The City Manager noted that this project has been underway for about five (5) years. He said the existing building is in need of repair, unsanitary, and unsafe for the employees. He said the new facility will also provide adequate assembly area for employees, office space, and storage buildings for vehicles. He said funding is available in the CIP Budget.

Carroll Hughes, Architect, for the project, presented the model of the complex and answered general questions from members of Council.

Mayor Michalove closed the public hearing at 4:34 PM

Councilman Bratton moved to approve the group development plan for the Public Works Complex as recommended by the Planning and Zoning Commission. This motion was seconded by Vice-Mayor Moore and carried unanimously.

B. **Public hearing relative to the Cottages at Richmond Hill Inn.**

Mayor Michalove said the Asheville Planning and Zoning Commission on June 6, 1990, reviewed and approved the site plan contingent upon approval by City Council of a variance for a reduction in the required width of the landscaped buffer from 20 feet to 10 feet.

Mayor Michalove opened the public hearing at 4:35 PM

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Gerald Green, Senior Planner, requested that the public hearing be continued until a concern about zoning use can be resolved.

Councilman Ellison moved to continue the public hearing until July 17, 1990 without further publication. This motion was seconded by Councilman Frank and carried unanimously.

III. OLD BUSINESS:

IV. NEW BUSINESS:

A. **Awarding of bids for Janitorial Contract.**

Mayor Michalove said members of Council reviewed the janitorial contract information and is now prepared to hear comments from the staff and public.

The City Manager said bids were advertised and received for janitorial services within City Hall. The lowest responsive bid was received from the present contractor, Mr. D's Cleaning Service, in the amount of $37,760.00. This is approximately $29,000 less than the current contract, and reflects the improved cleaning techniques which can be used because of new construction. The present contractor, Mr. D's Cleaning Service, has satisfactorily supplied cleaning services for City Hall Building for the past five years. He presented a summary of the bids.

The City Manager said it is his understanding that there was confusion about the bid specifications that have not

been adequately addressed and he recommended that Council reject all bids and re-advertise the janitorial contract.

Councilman Ellison moved to reject all bids and re-advertise the janitorial contract giving the staff an opportunity to review the bid process before bidding the service contract. This motion was seconded by Vice-Mayor Moore.

Dee Williams, with the Asheville Business Development Council, representing Anthony Strickland, one of the bidders on the contract, said she would not agree that Council should reject all bids and start the process over. She said her client, Mr. Strickland, presented the lowest responsible bid and should be awarded the contract. She said the bid specifications required the posting of a performance bond which she had never seen as a requirement on a service contract. She said this provision precluded many minority businesses from bidding on the service contract.

Ms. Williams noted that the low bidder, Mr. D's Cleaning Service, is owned by Dorvan Farmer, and the second low bidder, SKF Enterprises, is owned by Mr. Farmer's wife. She contended that the City does not have a process for service contracts and this process of "front" companies or "closely held affiliates" should stop and desist. She contended that Mr. D's Cleaning Service and SKF Enterprises should not have been allowed to bid on the contract since they are "closely held affiliates". She said, according to copies of check orders obtained, Mr. D's Cleaning Service was paid $78,155,70 in 1989-90 and his bid for the service was $68,000. She said she also felt something was wrong with the procedure when Mr. D's Cleaning Service is now bidding $37,376.00 or 45 (%) percent lower for 1990-91. She said the city staff has refused to furnish her with the 1099 forms for Mr. D's Cleaning Service.

Ms. Williams said she is questioning Council's commitment to minority contractors. She said the City has no contracts with minority contracting firms, even though the City recently adopted a Minority Business Plan. She said many individuals in the community wo. on the plan for two years and there is no evidence th. the City is committed to this plan. She said she felt the community will be destroyed by this attitude.

Anthony Stickland spoke to members of Council regarding the bidding process and said he felt positive steps and changes should be made to clean up the process. He said it is not a practice to require security bonds or performance bonds on service contracts. He said in his

opinion he presented the lowest responsible bid in a fair and honest manner. He said, in reference to monies paid to Mr. D's in 1989-90, he felt one individual should not have the authority to sign off on all change orders issued by Mr. D's.

Dorvan Farmer, owner of Mr. D's Cleaning Service, said the General Statutes provide that a satisfactory surety bond is to be posted. He said the state has several options as far as the bond is concerned in their contracts to allow minorities to bid on contracts.

Mr. Farmer explained his price has dropped 45 percent because he no longer had to split profit with a partner since he now owns the company in its entirety. He said he had also purchased new equipment that made the job less expensive.

Mr. Farmer said he had been given cost of living increases for the past five years based on his original contract in 1985.

Mr. Farmer answered general questions about the relationship of Mr. D's Cleaning Service to his wife's business, SKF Enterprises. He said this is the first contract he and his wife had bid on together. He said the city staff informed him there would be no problem in both of them submitting separate bids.

Larry Linney, Attorney representing a minority business contractor, said Council should define a lowest responsive bidder. He said Council should award the bid to Mr. Stickland which is the lowest responsible bidder. He said the City of Asheville can not achieve minority business goals with legal discriminations.

Mike Plemmons, Executive Director of the Council of Independent Business Owners, said the City staff and individuals in the community spend several years on the Minority Business Plan and this should be enforced by the city staff. He requested that the committee that worked on the Minority Business Plan get together and review all purchases and contracts of the City and take the discretion from just a few.

Viola Williams said she bid on the janitorial contract in 1985. She said the building is no cleaner today than it was when the City crews were performing the service. She said it is hopeless for a minority business to obtain a contract from the City.

David Williams said it is unfair that the City does not have a minority contract.

The owner of Sam's Construction Company spoke relative to competitive bids. He said the two low bids were not competitive bids.

Upon inquiry of Mayor Michalove, Ray Kisiah, Director of Parks, Recreation and Facility Services, said exact bid specifications were forwarded to prospective bidders.

Jackie Howell, President of the Black Professional League, said Council should award the contract to the lowest responsive bidder rather than reject all bids. She said she was also concerned about Council's commitment to minority businesses.

Marilyn Bass, with the YMI Cultural Center, said she felt there is a lack of commitment from Council for minority businesses. She asked if all the work done on the Minority and Women Business Procurement Plan was an exercise in futility.

Clarence Benton said the City should clean up their bid process and make strong policy moves. He said Council should make an effort to help minority businesses.

Matthew Bacoate said members of Council should be more aware of policies being implemented. He said Council members should not allow laws to be broken and should protect the taxpayers money in that respect.

Councilman Bratton said the City should implement the Minority Business Plan which was recently adopted.

Several members of Council expressed that they were not prepared to vote on the janitorial contracts and needed time to take all issues under consideration.

Vice-Mayor Moore said all bids should be legitimate and on a level playing field.

Mayor Michalove expressed appreciation to all the individuals that brought this matter to the attention of Council. He said he did not feel anything legally was wrong with the bid process but morally wrong as far as Affirmative Action is concerned. He said he was concerned about the dramatic difference between the costs. He said Council should keep in mind the implementation of the Minority Business Plan.

He said the process for establishing the Minority Business Committee is underway and should be completed in the near future. He said provisions in the plan indicates that the Committee get started in July.

Councilman Ellison said he would like to have signed affidavits from the owners of Mr. D's Cleaning Service and SKF Enterprises stating that their bids were sealed and they did not know what each other bid on the janitorial contract.

After considerable discussion, Councilman Ellison withdrew his motion to reject all bids and to re-advertise the bids. Vice-Mayor Moore accepted the withdrawal of the motion.

Councilman Bratton made a motion to continue discussion on the janitorial contracts for two (2) weeks, July 17, 1990, giving members of Council an opportunity to review all the pertinent data and decide what process to use for the janitorial contracts. This motion was seconded by Vice-Mayor Moore and carried unanimously.

Anthony Stickland asked that the 1099 forms furnished to Mr. D's Cleaning Service for 1989 be made available.

B. **Ordinance No. 1857 - Budget ordinance amendment - year-end adjustments.**

The City Manager said this budget amendment is to incorporate final "clean-up" budget revisions into the accounting system. This amendment distributes the 1989/90 pay package cost, longevity pay and fringe benefits from the Non-departmental budget to the operating departments. Other "bookkeeping" adjustments are also included.

Councilman Estes moved for the adoption of Ordinance No. 1857. This motion was seconded by Councilman Ellison.

On a roll call vote of 7-0, Ordinance No. 1857 passed on first and final reading.

Ordinance Book No. 12 - Page 171

C. **Ordinance No. 1858 - Ordinance amending Section 28-52(b) of the Code of Ordinances relative to Truck Regulations - Wendover Road and School Road.**

The City Manager said this action will include Wendover Road and School Road in the Malvern Hills Community, in the ordinance regulating truck traffic on certain residential streets.

Councilman Ellison moved for the adoption of Ordinance No. 1858. This motion was seconded by Councilman Bratton.

On a roll call vote of 7-0, Ordinance No. 1858 passed on first reading.

Councilman Price moved to suspend the rules and proceed to the second reading of Ordinance No. 1858. This motion was seconded by Vice-Mayor Moore and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1858 passed on second reading.

Councilman Price moved to suspend the rules and proceed to the third reading of Ordinance No. 1858. This motion was seconded by Vice-Mayor Moore and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1858 passed on third reading.

Ordinance Book No. 12 - Page 172

D. Resolution No. 90-85 - Resolution authorizing the Mayor to execute on behalf of the City of Asheville a contract and any change orders within the budgeted amount with Lyons Construction Company for the project known as Chestnut Street Bridge Replacement Project.

The City Manager said bids were opened for replacement of the Chestnut Street Bridge on June 15, 1990. Lyon Construction Co. of Rogersville, Tennessee was low bidder on the project. The bids have been tabulated and reviewed by Thompson Gordon and Shook Engineers and it is recommended that the contract be awarded to Lyon Construction Co. in the amount of $648,650.50. 20% of the replacement cost will be the City's share and 80% will be the Federal Highway Administration. City funds are in the Capital Projects Program budget.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 90-85 was unanimously adopted.

Resolution Book No. 12 - Page 155

V. CONSENT:

A. Announcement of cancelled meeting for July 3, 1990.

B. Resolution No. 90-86 - Resolution of intent to close Beaumont Street between South Charlotte Street and South Market Street and scheduling a public hearing for July 24, 1990.

SUMMARY: Closing of this section of Beaumont will allow maximum usage of the area for the Public Works

Operations Complex. Access from east end residential area will be available by one additional block of travel for both vehicles and pedestrians.

Resolution Book No. 18 - Page 156 - 157

C. **Resolution No. 90-87 - Resolution authorizing the Mayor of the City of Asheville to file a Section 3 Discretionary Grant Application with the North Carolina Department of Transportation, Public Transportation Division.**

SUMMARY: The Asheville Transit Authority has placed in the TIP specific capital items for procurement during FY '91 and '92. The City of Asheville does not have surplus Section 9 funds for capital needs; therefore, the need to be a part of the statewide Section 3 grant to UMTA is warranted.

Resolution Book No. 18 - Page 158

D. **Resolution No. 90-88 - Resolution authorizing the Mayor to execute on behalf of the City of Asheville a North Carolina Department of Transportation Grant Agreement - Project No. 9.9584893 for the Asheville Regional Airport Authority.**

SUMMARY: The City of Asheville and the County of Buncombe are cosponsors of the grant agreement and the NCDOT requires each sponsor to execute the grant agreement. This grant of State Airport Aid funds, in the amount of $101,330, will be used for the following approved project: "AIP-10: Construct & Light Angled Taxiway; Rehabilitate & Expand Air Carrier Ramp & Connecting Taxiway; Acquire & Install Guidance Taxiway Signs and Runway Distance Markers"

Resolution Book No. 18 - Page 159

Upon motion of Councilman Frank, seconded by Vice-Mayor Moore, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

A. Group development action by the Planning and Zoning Commission

Mr. Gerald Green, Senior Planner, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to

group developments at the next scheduled regular meeting of the City Council. The action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. The following actions were taken by the Planning and Zoning Commission at their meeting on June 13, 1990:

1. Leicester Highway Shopping Center

Gerald Green, Senior Planner in the Planning Department, said that the Planning and Zoning Commission, at its June 13, 1990 meeting, reviewed and approved the site plan for the Leicester Highway Shopping Center, contingent upon the following: 1) Approval of driveway permit(s), as required by NCDOT; 2) Developer contact the NCDOT to assure that there are no conflicts between the proposed development and the planned widening of Leicester Highway (NC 63); and 3) Place the buffer at the top of the steep cut slope on the south side of the site in a 10 foot wide strip not to exceed a 2:1 slope.

He said the proposed development is a 14 acre shopping center to be located on Leicester Highway at its intersection with Old County Home Road. Approximately 99,000 square feet of retail and storage space will be located in the center, which is proposed to include Food Lion, Roses, and Eckerd's. The site has severe topography and will require extensive grading. Cut banks with 1:1 slopes of up to 80 feet are proposed.

Council accepted the report of the Planning and Zoning Commission, approving the group development by taking no action.

2. Overlook Village - Landscape Plans

Gerald Green, Senior Planner in the Planning Department, said revisions to Overlook Village landscape plan dated 8/2/89 were denied approval by the Asheville Planning and Zoning Commission at their May 2, 1990 meeting. The developer appealed this matter to City Council, who remanded it to the Planning and Zoning Commission. At a special meeting June 13, 1990, the Planning and Zoning Commission approved the revised landscape plan, dated 8/2/89, with the following contingencies: 1) Complete the planting at the top of the wall adjacent to the K-Mart Plaza property, for the length of the wall, with at least 15 Bradford Pear trees. The trees shall have a minimum caliper of 2-1/2" and be at least 12' tall; 2) Complete planting of White Pines in the northern most corner behind Circuit City and Phar-Mor as shown on the plans dated 8/2/89; 3) Plant enonymus in the criblock wall; and 4) Complete hydroseeding of the project as required.

Council accepted the report of the Planning and Zoning Commission, approving the landscape plans by taking no action.

Thornridge Subdivision located on Old Haw Creek Road - Final plat

Gerald Green, Senior Planner in the Planning Department, presented the final plat of Phase I of Thornridge Subdivision located on Old Haw Creek Road. He said Windsor-Aughtry Company, developer, has presented the final plat for Phase I to the City for acceptance and approval. The preliminary plat for the subdivision was approved by the Planning and Zoning Commission on October 4, 1989. In lieu of installing utilities and constructing roads, the developer has submitted a letter of credit sufficient to cover the cost of installing the required improvements. The final plat and the letter of credit have been reviewed by staff and found to meet the requirements of the City's regulations and ordinances.

Mr. Green said Phase I consists of 18 lots, upon which the developer proposes to construct single-family homes. The homes and lots will be sold as a package. Approximately 700 feet of new street and new water and sewer lines are to be constructed as part of the development of the subdivision. All contingencies placed upon the approval of the preliminary plat by the Planning and Zoning Commission have been met.

Councilman Ellison moved to approve the Final Plat for Phase I of the Thornridge Subdivision located on Old Haw Creek Road. This motion was seconded by Vice-Mayor Moore and carried unanimously.

William Darden - Comments relative to obtaining Animal Permit

William Darden appeared before Council expressing frustration in obtaining a permit to keep animals. He said he has been trying to obtain the permit since March, 1990. He cited many dates and conversations in his attempt to obtain the permit. He said his premises had been inspected approximately 111 times by various inspectors and not one violation has been determined.
He asked Council to check into why he can not obtain his permit.

Council asked the City Manager to look into Mr. Darden's problem and report his findings back to Council at the next meeting.

Mike Plemmons - Council of Independent Business Owners - Request relative to Sign Ordinance

Mike Plemmons requested a printed list of all the individuals receiving letters relative to compliance/noncompliance with the Sign Ordinance. He requested that the information be furnished to CIBO by Friday, June 28, 1990.

Mayor Michalove requested that the City Manager furnish this information to CIBO as soon as it is available.

EEOC Claims - Elizabeth Budd-Webb - Deborah Faulkner - Janet C. Wilson - Barbara C. Hensley

The City Attorney reported that the EEOC Claims involving Elizabeth Budd-Webb, Deborah Faulkner, Janet C. Wilson, and Barbara C. Hensley have been settled.

Claim - Jean Hedrick (Sewer)

The City Manager said the City received a claim from Jean Hedrick.

Mayor Michalove referred the claim to the City Attorney for investigation and recommendation.

CONTINUATION OF NEW BUSINESS

B. Appeal of Jackie Babb - Disability Review Board

Mayor Michalove announced that, since he had participated in the deliberations and decision of the Disability Review Board concerning the request of Mr. Babb, he would ask to be excused from participation in the consideration of this matter by the City Council in order to avoid the possibility of a conflict of interest. Upon motion of Councilman Bratton, seconded by Councilman Frank, the City Council voted unanimously to excuse Mayor Michalove from participation in consideration of this matter.

Mr. Babb was present at the City Council meeting for the presentation of his appeal, and was represented by his attorney, Gary A. Dodd. Following the presentation on behalf of Mr. Babb, the City Council held an executive session to discuss the merits of Mr. Babb's claim, which executive session was called for by motion of Councilman Ellison, seconded by Councilman Estes, and adopted unanimously by the City Council. Following deliberations in executive session, the City Council returned to open session and upon a unanimous vote of 5-1 voted to deny Mr. Babb's supplemental benefits, based upon Findings of Fact and Conclusions of Law to be prepared by the City Attorney and approved by the City Council. A copy of the transcript of proceedings is on file in the Office of the City Clerk.

VII. ADJOURNMENT.

The meeting adjourned at 8:50 PM.

H. M. Nicholson
MAYOR

William F. Wolcott
CITY CLERK

Tuesday - July 10, 1990 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Assistant City Attorney Patsy Brison; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Corporation Counsel William F. Slawter

INVOCATION

The invocation was given by Councilman Price.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the minutes of June 26, 1990 meeting as submitted.

I. PROCLAMATIONS:

A. **Proclamation - "Consumer Credit Counseling Week" - July 16 - 20, 1990**

Mayor Michalove proclaimed the week of July 16 - 20, 1990 as "Consumer Credit Counseling Week" and presented the proclamation to Bob Bennett with the WNC Consumer Credit Counseling Service.

B. **Proclamation - "Therapeutic Recreation Week" - July 9 - 13, 1990**

Mayor Michalove proclaimed the week of July 9 - 13, 1990 as "Therapeutic Recreation Week".

II. PUBLIC HEARINGS:

III. OLD BUSINESS:

A. Report relative to the Globe Furniture Building Facade.

The City Manager said after a fire which destroyed the Globe Furniture building, the building was demolished except for the facade. He said negotiations have taken place with the current owner to obtain an easement to insure the facade will be retained. In exchange for this easement, the City Manager said the owner requires that the City pay for the stabilization costs. He said the retention of the facade would assist in salvaging some of the urban character on Broadway.

He said following previous discussion the Council authorized the City Manager to negotiate an easement with the property owner and asked for a firm quote to stabilize the Globe Facade. He said a proposal had been received in the amount of $9,600 for the stabilization of the facade.

He said the Downtown Commission passed a motion urging the City to contribute $5,000 with the private sector donating $5,000 and that a separate organization be set up to facilitate similar situations. He said the entire amount of the private funds have not been raised, however, he recommended that Council authorize the expenditure contingent upon the remainder of the funds being raised by the private sector.

Councilman Ellison said the sum of $3,500 had previously been discussed; therefore, he moved to support funding the stabilization of the facade in an amount not to exceed $3,500 as previously stated and voted upon provided the private sector raises the remaining funds of $6,500 by January 1, 1991. This motion was seconded by Councilman Price.

Vice-Mayor Moore said it is his understanding that two property owners in the downtown area have received notices to remove unsightly remains after recent fires. He said i his opinion the facade on the Globe Furniture Building can be completely rebuilt similar to the current facade. He said six (6) months for the facade to stand in an unsafe condition is too long. He said the buildings and the facade should be removed within ninety (90) days.

Councilman Estes commented that the City should not spend money on something that can be rebuilt. He said if the private sector wants to retain the facade then they should be responsible for raising 100% of the monies.

At the request of Councilman Bratton the minutes of the March 13, 1990, meeting regarding the Globe Furniture Building facade were read.

Upon inquiry of Council, Bob Hixson, Chief Building Inspector, said the facade in its present condition is unsafe.

Councilman Ellison amended his motion to provide that the private sector raise $6,500 to stabilize the facade by October 10, 1990. This amendment was accepted by Councilman Price.

Councilman Bratton made a substitute motion to readopt her motion made at the March 13, 1990 meeting as follows: "to authorize the City Manager to negotiate an easement with the property owner and that staff come back to City Council

with the budget amendment to authorize the stabilization work".

Councilman Bratton's motion died for the lack of a second.

Councilman Ellison's motion passed on a voice vote of 5-2, with Councilman Estes and Councilman Bratton voting "no".

B. Consideration of Janitorial Services.

Mayor Michalove said the awarding of the bids was discussed at the June 26, 1990 meeting and Council postponed consideration of the bids until July 10, 1990 giving members of Council an opportunity to review requests presented during that meeting.

The City Manager said members of Council were furnished additional information regarding the janitorial contract. He said it is his understanding that Mr. D's Cleaning Service no longer desires to be involved in the cleaning of the City Hall Building.

Steve Warren, Attorney representing Mr. D's Cleaning Service, said after reviewing the bidding process he determined that both Mr. D's and SKF Enterprise Inc.'s bids were valid, legal, and proper in all respects. He said the amount bid for the square footage to be cleaned is competitive with other cleaning services in the City. He further read a portion of a letter forwarded to City Attorney Bill Slawter which stated that Mr. D's and SKF Enterprises, Inc. no longer desire to be involved in the political issues connected therewith. He said this letter was also signed by Dorvan Farmer, owner of Mr. D's Cleaning Service and Katre Farmer, owner of SKF Enterprises, Inc.

Bill Anderson, Attorney for Katre Farmer, owner of SKF Enterprises, Inc., reiterated comments of Steve Warren and further stated that his client no longer desires to be involved in the janitorial contract or bidding process for the City of Asheville.

After discussion, Councilman Ellison moved to reject all janitorial contract bids and to authorize the City Manager to negotiate, outside the bidding process, a contract for one year with Luxury Services for janitorial services for the City Hall Building based on a fair market value for the services. Further, that if an agreement can not be reached with Luxury Services that the janitorial contract be re-bid following the proper bidding process. This motion was seconded by Vice-Mayor Moore.

Larry Linney, Attorney for Luxury Services, disagreed with the motion stating that his client submitted a valid, fair and responsible bid and should be awarded the contract based on his bid.

Tony Strickland, owner of Luxury Services, said he would not be interested in the contract if as a result of the negotiation process the price is too low for the services. He said it has been determined that Mr. D's Cleaning Service has received approximately $80,000 per year for the cleaning.

Councilman Ellison reminded Mr. Strickland that he has the right to negotiate for a fair market price.

Mr. Strickland was then given the opportunity to consult with his attorney on the motion.

Dee Williams, with the Asheville Business Development Council, said she felt the community needs more support from Council. She said Council should be more assertive and more pro-active and not let the city staff lead them.

Larry Linney reported that he had advised his client to negotiate the contract, but would request that the contract not be limited to one year as the previous contract was not so limited.

Councilman Ellison amended his motion to provide that the negotiated contract would include an option to renew it on an annual basis, not to exeed a three year term, with set limits on annual increases in the price included in the contract. Vice-Mayor Moore consented to the amendment.

Council requested an annual report from staff on the service contract before it is renewed each year.

Councilman Bratton also requested that staff advise Council members of the results of the negotiations with Luxury Services.

After discussion, Councilman Ellison's motion passed unanimously.

C. Report - Council Sign Committee.

Mayor Michalove said on June 5, 1990 the City Council established a committee to review the Sign Ordinance.

Vice-Mayor Moore said the Mayor's Sign Ordinance Revision Committee held a meeting on Monday, July 2, 1990. He said the Committee discussed the action taken by Council at its June 26 meeting relative to a procedure for possible revision of the sign ordinance. He said the Committee approved the following recommendations to Council:

1) That the City Attorney, City Manager, and Planning Director revert to the status of staff support for the Committee.

2) That the Mayor be asked to appoint three more committee members. Recommended (if they can and will serve) are Mike Plemmons, Mike Moser, Jerry Grant.

3) That a public forum on the ordinance be held on Tuesday, July 31, at the Asheville Civic Center to coincide with a short regular meeting of Council.

4) That as soon as practicable after the forum the Mayor's Committee make recommendations to Council as a whole on if and how the ordinance should be revised.

5) That Council make a final determination with respect to revisions and, if necessary, schedule a public hearing on its proposed revisions.

Vice-Mayor Moore moved that the Sign Ordinance Revision Committee's recommendations be accepted. This motion was seconded by Councilman Bratton and carried unanimously.

IV. NEW BUSINESS:

A. Ordinance amending Chapter 19A of the Code of Ordinances of the City of Asheville (Personnel Ordinance)

The City Manager said a draft comprehensive Personnel Ordinance has been developed. It incorporates the recommendations of several employee committees. The ordinance will be supplemented by Civil Service Rules and Regulations and City-wide personnel policies. He requested that the Council set a public hearing on the proposed ordinance for July 24, 1990.

Pam McGrayne, Personnel Director, explained the process used to develop the proposed Personnel Ordinance. She said in September, 1988 eight (8) employee committees were established to review current personnel policies and to make recommendations for inclusion in the Personnel Ordinance. She said the proposed ordinance has been presented to the Civil Service Board, department heads, and employees. She said employee sessions regarding the ordinance were not mandatory but there was good participation.

Pam McGrayne highlighted important aspects of the proposed ordinance and answered general questions from members of Council.

Mayor Michalove listed his concerns and comments regarding the proposed ordinance.

Ms. McGrayne said the Civil Service Board commented that the substance of the ordinance is fine; however, they felt the context of the ordinance should be included as part of the Civil Service Rules and Regulations.

After discussion, Councilman Ellison moved to schedule a public hearing on the proposed Personnel Ordinance for Ju 24, 1990. This motion was seconded by Councilman Bratton and carried unanimously.

B. **Ordinance No. 1859 - Budget ordinance amendment to appropriate funds for the Rental Rehabilitation Program.**

The City Manager said the City has received funding approval of $54,000 from HUD through the Rental Rehabilitation Program. This budget ordinance amendment will appropriate the funds into the City budget. The program is subcontracted with the Housing Authority for administration.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Estes moved for the adoption of Ordinance No. 1859. This motion was seconded by Councilman Price.

On a roll call vote of 7-0, Ordinance No. 1859 passed on first and final reading.

Ordinance Book No. 12 - Page 173

C. **Ordinance No. 1860 - Ordinance amending Section 25-5 of the Code of Ordinances (Selling and Entertaining on Streets and Sidewalks).**

Leslie Anderson, Downtown Development Director, said the revisions to the Code would provide a permitting process for street cart vending, outdoor dining contiguous to restaurants and street entertainment. This will enliven the street atmosphere, provide entrepreneurial opportunities and create pedestrian interest.

She said the Downtown Commission recommends approval of the ordinance. She said they have received requests to include other areas of the City in the ordinance.

Vice-Mayor Moore moved for the adoption of Ordinance No. 1860. This motion was seconded by Councilman Price.

On a roll call vote of 7-0, Ordinance No. 1860 passed on first reading.

Councilman Frank moved to suspend the rules and proceed to the second reading of Ordinance No. 1860. This motion was seconded by Vice-Mayor Moore and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1860 passed on second reading.

V. CONSENT:

A. Resolution No. 90-89 - Resolution appointing member to the Tourism Development Authority.

SUMMARY: The term of office of Steve Miller will expire on August 30, 1990. This resolution will reappoint Steve Miller for a 3-year term, term expiring August 30, 1993, or until his successor is duly appointed and qualified.

Resolution Book 18 - Page 160

B. Resolution No. 90-90 - Resolution appointing member to the Asheville Area Civic Center Commission.

SUMMARY: The term of office of Celine Lurey expired on June 30, 1990. This resolution will reappoint Mrs. Lurey to the Asheville Area Civic Center Commission for a 3-year term, term expiring June 30, 1993, or until her successor is duly appointed and qualified.

Resolution Book 18 - Page 161

C. Resolution No. 90-91 - Resolution appointing members to the City of Asheville Police Officers and Firefighters Disability Review Board.

SUMMARY: The terms of office of Douglas R. Franklin and Dr. John A. Henderson will expire on July 19, 1990. This resolution will reappoint Mr. Franklin and Dr. Henderson to the City of Asheville Police Officers and Firefighters Disability Review Board for a 2-year term, term expiring July 19, 1992, or until their successors are duly appointed and qualified.

Resolution Book 18 - Page 162

D. Resolution No. 90-92 - Resolution appointing members to the Asheville Regional Airport Authority.

SUMMARY: The terms of office of Ivor Barrett and Nelson Ferg expired on June 30, 1990. This resolution will reappoint Mr. Barrett and Mr. Ferg to the Asheville Regional Airport Authority for a 4-year term, term expiring June 30, 1994, or until their successors are duly appointed and qualified.

Resolution Book 18 - Page 163

E. Resolution No. 90-93 - Resolution appointing members to the Asheville-Buncombe Crime Stoppers Committee.

SUMMARY: The terms of office of Joe Haight, Virginia Washington, and Norma Price expired on June 30, 1990. This resolution will reappoint Mr. Haight, Mrs. Washington, and Mrs. Price to the Asheville-Buncombe Crime Stoppers Committee for a 3-year term, term expiring June 30, 1993, or until their successors are duly appointed and qualified.

Resolution Book 18 - Page 164

F. Resolution No. 90-94 - Resolution of intent to close a portion of Beaver Drive and scheduling a public hearing on August 7, 1990.

SUMMARY: A petition signed by all property owners along the unopened portion of Beaver Drive has been received. There would be no adverse effects from closing the right-of-way. The Lakeview Park Commission has been notified of the proposed closing.

Resolution Book 18 - Page 165 - 166

Upon motion of Councilman Frank, seconded by Vice-Mayor Moore, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

CLAIMS - GLORIA BANKS (TRAFFIC ENGINEERING) - JANICE HARRINGTON (STREETS) - DREW LAWSON (WATER) - GLENDA LANCE (STREETS) - LARRY PENLEY (SEWER) - LINDA ANN CLONTZ (WATER) - MARIE FORE (WATER) - ROBERT WATKINS (WATER)

The City Manager said the City received claims from Gloria Banks, Janice Harrington, Drew Lawson, Glenda Lance, Larry Penley, Linda Ann Clontz, Marie Fore, and Robert Watkins.

Mayor Michalove referred the claims to the City Attorney for investigation and recommendation.

Resolution No. 90-95 - Resolution authorizing the City Attorney to file a Complaint and Declaration of Taking and other related documents in the Buncombe County Superior Court for the condemnation of certain tracts of real property located in the South Asheville and Haw Creek Annexed Areas for the construction and installation of Sewer/Wastewater Lines

The City Manager presented a resolution authorizing the City Attorney to file a Complaint and Declaration of Taking and other related documents in the Buncombe County Superior Court

for the condemnation of certain tracts of real property located in the South Asheville and Haw Creek Annexed Areas for the construction and installation of Sewer/Wastewater Lines.

Upon motion of Councilman Frank, seconded by Vice-Mayor Moore, Resolution No. 90-95 was unanimously adopted.

Resolution Book 18 - Page 167-168

Ordinance No. 1861 - Ordinance readopting Ordinance No. 1567 establishing the Asheville Downtown Commission

Mayor Michalove noted that Ordinance No. 1567 provided that the Asheville Downtown Commission be embodied until June 30, 1990. He said since purposes outlined for the Commission have not been completed there is a need to extend this date. He said the proposed ordinance will extend the Commission until December 31, 1990.

Councilman Price moved for the adoption of Ordinance No. 1861. This motion was seconded by Councilman Frank.

On a roll call vote of 7-0, Ordinance No. 1861 passed on first reading.

Councilman Bratton moved to suspend the rules and proceed to the second reading of Ordinance No. 1861. This motion was seconded by Vice-Mayor Moore and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1861 passed on second reading.

Councilman Bratton moved to suspend the rules and proceed to the third reading of Ordinance No. 1861. This motion was seconded by Vice-Mayor Moore and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1861 passed on third and final reading.

Ordinance Book 12 - Page 182

Ralph Bishop - Comments relative to evaluation of Council

Ralph Bishop spoke to members of Council relative to an evaluation of Council's accomplishments during their seven (7) months of tenure.

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 6:30 p.m.

H. M. Nicholson
MAYOR

William F. Wolcott
CITY CLERK

Tuesday - July 17, 1990 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Councilman Ellison.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the minutes of the July 10, 1990 meeting as submitted.

I. PROCLAMATIONS:

II. PUBLIC HEARINGS:

A. Public hearing relative to the closing of Academy and Center Street at their intersection with Hendersonville Road.

Mayor Michalove opened the public hearing at 4:16 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Jim Ewing, Director of Public Works, said the N. C. Department of Transportation's designs for improvements to Hendersonville Road would result in excessive grades and additional right-of-way to connect Academy Street and Center Street to the new roadway. Closing these streets, where they intersect with Hendersonville Road, will eliminate the excessive grades and the need for additional right-of-way acquisition, but will still provide access to Hendersonville Road via Yorkshire, Reed and Fairview Streets. This public hearing was scheduled at the June 26th meeting.

Mr. Ewing said the Public Works Department concurs with the closing of Academy and Center Street at the

intersection with Hendersonville Road. He said the closing would not occur until the construction project is underway.

Councilman Estes strongly suggested that the NCDOT guarantee a safe access into Hendersonville Road. He suggested a traffic light at the intersection of Hendersonville Road and West Chapel Road as well as other access roads if necessary.

Lucille Frady, 705 Center Street, said access roads into Hendersonville Road are narrow and need widening.

Harold Sluder, 11 Center Street, spoke in opposition to the closing of Academy and Center Street.

Porter Morgan, 15 Center Street, said he currently has storm drainage problems and is concerned that this project will cause additional problems.

John Shuford, 618 Brookshire, also requested a safe access into Hendersonville Road. He suggested traffic lights at Yorkshire and another area to the south.

Cecil Jackson, 709 Brookshire, said Reed Street is in need of improvements prior to this closing.

After discussion, Councilman Ellison moved that the public hearing be continued until August 14, 1990 without further advertisement in order for the City Staff to meet with the NCDOT regarding traffic signals on access roads; plans for widening of intersections on access roads; and storm drainage plans. This motion was seconded by Vice-Mayor Moore and carried unanimously.

Mayor Michalove requested that the City Manager furnish Council members with the City's plan for street improvements on Yorkshire Street, Reed Street, Fairview Road, and West Chapel Road. He also requested that a representative of the NCDOT be present at the August 14, 1990 meeting.

III. OLD BUSINESS:

A. Continuation of public hearing relative to the Cottages at Richmond Hill Inn.

Mayor Michalove said the City Council continued this public hearing at the June 26th meeting. The site pla was approved by the Planning and Zoning Commission contingent upon City Council approving a variance for a reduction in the required width of the landscaped buffe from 20 feet to 10 feet.

Gerald Green, Senior Planner in the Planning Department, at the request of the developer, requested that the public hearing be continued for two (2) weeks.

Councilman Price moved to continue the public hearing until August 7, 1990 without further advertisement. This motion was seconded by Councilman Frank and carried unanimously.

B. **Ordinance No. 1860 - Third reading of an ordinance amending Section 25-5 of the Code of Ordinance (Selling and Entertaining on Streets and Sidewalks).**

Mayor Michalove said this ordinance passed on first and second readings on July 10, 1990. This ordinance provides for street cart-vending, outdoor dining contiguous to restaurants, and street entertainment, which will enliven street atmosphere, provide entrepreneurial opportunities, and create pedestrian interest.

Upon request of the local ABC Board, through the City Attorney, Councilman Price moved to amend Ordinance No. 1860 Section B(3)(k) adding the language "all subject to compliance with Chapter 18B, as amended, of the North Carolina General Statutes" and Section B(4)(e) adding the language "in compliance with Chapter 18B, as amended, of the North Carolina General Statutes." This motion was seconded by Councilman Ellison and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1860 passed on third and final reading.

Ordinance Book No. 12 - Page 174 - 181

IV. NEW BUSINESS:

A. **Final Plat for Forest Lake Subdivision - Phase II.**

Gerald Green, from the Planning Department, said on February 14, 1990, the Asheville Planning and Zoning Commission reviewed and approved, subject to the granting of variances for street design, the preliminary plat for Forest Lake Subdivision. The 135 lot subdivision is located off Rock Hill Road. City Council granted the requested variances on March 13, 1990. The developers have submitted the final plat for Phase II, containing 34 lots, to the Planning Department for review and approval. The final plat for Phase II of Forest Lake Subdivision complies with the City of Asheville's Subdivision Regulations. This section of the subdivision is located outside City

limits in the City's extraterritorial jurisdiction. Improvements (streets, water, sewer, etc.) do not have to be constructed prior to final plat approval in subdivisions located outside city limits.

Councilman Estes moved for the approval of the final plat for Forest Lake Subdivision, Phase II as recommended by the Planning and Zoning Commission, plat known as 90-073-C dated July 9, 1990. This motion was seconded by Councilman Bratton and carried unanimously.

Mr. Green said the malar plat will be recorded in the Buncombe County Register of Deeds and a copy maintained in the Planning Department.

B. **Report - Hendersonville Road Project.**

Mayor Michalove said the southern segment of the North Carolina DOT widening project for a five-lane facility along Hendersonville Road (Project #U-90B from the Blue Ridge Parkway to Rock Hill Road) is presently under construction. The design of the northern segment of the project along the Town of Biltmore Forest town limits (Project #U-90A from Rock Hill Road to I-40) has now been completed and construction will begin in November, 1990. The entire project is scheduled to be completed by 1993.

Patty Tallerday, from the Planning Department, reviewed the attached report outlining the history of the Hendersonville Road Project.

Mary Helen Duke, Transportation Planner for the Asheville Urban Area, reviewed the attached status report on the Hendersonville Road widening project.

Councilman Estes commented that no elected official in North Carolina has been involved in the decisions for the Hendersonville Road project.

Polly Hickling, 19 Forest Dale Drive, presented a petition to members of Council requesting assistance for the residents in the area and to help fund a lawsuit against the state regarding the Hendersonville Road Project. They were mainly concerned about the state taking all the land on the east side of the road for the project.

A resident of 27 Greenwood Circle said the taking of the property on the east side of the road would reduce the tax base for the City of Asheville. He said the property should be taken from both sides of the road in order to be fair and reasonable.

Jim Andrews of 24 Deanwood Circle asked if the Town of Biltmore Forest is planning on rezoning the property along Hendersonville Road.

The City Manager of the Town of Biltmore Forest said the Board has taken no action to rezone the property and has not considered a petition to request a historical designation.

Patty Tallerday said even though the Town of Biltmore Forest has not requested the historical designation the NCDOT can not take the property as long as it is eligible for historical designation.

Lloyd Kirk, owner of Forest Manor on Hendersonville Road, requested that Council ask the NCDOT to make a detailed presentation to the residents and Council regarding the project and the impact it will have on the City of Asheville. He said this project will be detrimental to the commercial enterprise on Hendersonville Road.

Tommy Koontz, Trustee of the Biltmore Baptist Church, requested that Council ask the NCDOT to take the property on both sides of Hendersonville Road. He said this project will greatly affect the parking for Biltmore Baptist Church.

Garland Vance, Associate Pastor of Biltmore Baptist Church, reiterated comments made by Mr. Koontz.

Councilman Price suggested that Council ask the NCDOT to meet with Council on the Hendersonville Road Project Site to discuss the concerns of the residents. She also requested that David Brown, NCDOT Board member, also meet with Council.

Councilman Estes requested a report from the City Attorney on the legal options Council may have in dealing with the Hendersonville Road Project.

Vice-Mayor Moore requested that the Mayor appoint a two to three member committee from Council to meet with the NCDOT and the Town of Biltmore Forest to discuss the concerns regarding the Hendersonville Road project. He also requested that the City Attorney research the legal approach Council can take regarding this matter. He suggested that the committee take under consideration what the legal approaches would cost the tax payers; an appraisal of a delay or a stopping of the project if legal action is taken; to consider if there would be a increase in cost if the project was delayed; and an assessment of the risks of loosing the project.

V. CONSENT:

A. Resolution No. 90-96 - Resolution authorizing the City Manager to dispose of personal property by private sale - (1977 Garbage Truck).

SUMMARY: The Town of Burnsville has made an offer of $4,400 to the City of Asheville to purchase a 1977 Ford, 25-cubic yard garbage truck. This resolution will authorize the City Manager to sell this vehicle to the Town of Burnsville.

Resolution Book 18 - Page 169

B. Resolution No. 90-97 - Resolution establishing the Minority Business Committee.

SUMMARY: City Council adopted the Minority Business Plan on April 10, 1990. This Plan stipulates that City Council establish a Minority Business Committee to provide oversight and direction for implementation of the Minority Business Plan. This resolution will establish the Minority Business Committee and appoint members to the Committee.

Resolution Book 18 - Page 170 - 171

C. Resolution No. 90-98 - Resolution authorizing the closing of certain streets in downtown Asheville relative to the Bele Chere Festival.

SUMMARY: The Bele Chere Festival will be held July 26-29, 1990, in Downtown Asheville. This resolution will close streets in downtown Asheville to vehicular traffic for the Festival.

Resolution Book 18 - Page 172 - 175

D. Resolution No. 90-99 - Resolution appointing member to the Asheville Area Civic Center Commission.

SUMMARY: The term of office of O. E. Starnes as a member of the Asheville Area Civic Center Commission expired June 30, 1990. This resolution will reappoint Mr. Starnes to th Asheville Area Civic Center Commission to 3 year term and shall serve until his term expires on June 30, 1993, or until his successor is duly appointed and qualified.

Resolution Book 18 - Page 176

E. Resolution No. 90-100 - Resolution appointing member to the Planning and Zoning Commission.

SUMMARY: The term of office of Pat Hutchisdon as a member of the Planning and Zoning Commission expires August 14, 1990. This resolution will reappoint Ms. Hutchison to the Planning and Zoning Commission to 2-year term and shall serve until her term expires on August 14, 1992, or until her successor is duly appointed and qualified.

Resolution Book 18 - Page 177

Upon motion of Councilman Frank, seconded by Vice-Mayor Moore the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

A. Group development action by the Planning and Zoning Commission

Gerald Green, Senior Planner with the Planning Department, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. The action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. The following actions were taken by the Planning and Zoning Commission at their meeting on July 11, 1990:

1. Additions and Renovations to Oak Gymnasium at A.B. Technical College

Mr. Gerald Green, Senior Planner in the Planning Department, said the Asheville-Buncombe Technical Community College is proposing the renovation of and additions to the existing Oak Gymnasium. The gym is located off Victoria Road on the college campus. Included in the project is the addition of 3310 square feet of classroom space and 9880 square feet of gymnasium area. Eleven new parking spaces will be constructed, with most of the parking needs met by existing parking areas After reviewing the site plan and hearing staff comments on the proposal, the Asheville Planning and Zoning Commission approved the site plans as presented.

City Council accepted the recommendation of the Planning and Zoning Commission by taking no action.

2. **Amendment to Approved Site Plan for Pinecliff Condominiums**

Gerald Green, Senior Planner in the Planning Department, said the Pinecliff Condominiums project site plan was submitted to the City of Asheville for review and approval in April, 1986. The plans were reviewed as required by the Group Development requirements by the Planning and Zoning Commission, who recommended approval of Phase I of the project (buildings A thru J) and advised the developer to revise the plans for Phase II (buildings K thru S). Phase I plans were approved by the Asheville City Council on May 27, 1986. Revised plans for the nine buildings in Phase II were submitted to the City in July, 1986. During the review of these plans, staff expressed concern regarding the proposed 17% grade of the southern section of the internal street system. After reviewing the plans, the Planning and Zoning Commission on August 6, 1986 recommended approval of Phase II of the Pinecliff project with a 17% grade on the loop road. Phase II was approved by City Council on September 30, 1986.

The approved plans call for the construction of eighteen (18) buildings, each containing four (4) units. Building A was converted into two duplex buildings. Currently, all buildings except K, L, M, and N are constructed or under construction. Buildings P and O are under construction, and Building O is in the early stages of construction.

During the construction of the project, roads were constructed with grades in excess of the 17% stipulation by the Planning and Zoning Commission in their approval of the project. A section of the southern portion of the road has a grade in excess of 27%, while a section of the northern portion of the road has a grade in excess of 25%.

Significant on-site and off-site erosion problems began occurring as a result of grading and construction activity at Pinecliff in early 1990. A civil penalty of the $100 per day for off-site sediment loss was levied against the project beginning February 21, 1990. This penalty continued up to and including April 21, 1990, resulting in a total off-site penalty of $5,900. The site continued to violate on-site erosion regulations, and the penalty was reduced to $50 per day effective April 21, 1990. This penalty was lifted June 28, 1990. The developers are required to pay the accumulated civil penalty, which totals approximately $10,000.

During the inspection of the erosion problems, Planning Department staff became aware of the excessive road

grades. The developer of the Pinecliff project was notified of the violation of the approved plans and advised to take action to revise the plans and modify the road grades. On June 28 Larry Traber, project architect, presented revised plans for the Pinecliff project to the Planning Department. These plans show the actual location of roads and buildings and call for the construction of a new road on the south side of the project.

According to the revised plans, the section of road with the 27% grade would be abandoned and demolished and a new section of road with a grade not to exceed 15% would be constructed. Construction of the new section of road would require the relocation of the proposed building SM. The section of road on the north side of the project with a grade in excess of 25% would remain.

The revised plan was approved with reservations by the Planning and Zoning Commission.Pinecliff Condominiums project site plan was submitted to the City of Asheville for review and approval in April 1986. The plans were reviewed as required by the Group Development requirements by the Planning and Zoning Commission, who recommended approval of Phase I of the project.

Mr. Green said the developer was advised of the erosion control violations and has corrected the erosion problems.

Vice-Mayor Moore moved to deny approval of the amended site plan for Pinecliff Condominiums because the street grades are in excess of 12 percent.

Councilman Ellison said he felt this action would be unfair to the developer. He said Council should establish reasonable standards for developers to use in regard to street grades before denying projects.

After discussion, Vice-Mayor Moore withdrew his motion to deny the project.

Councilman Ellison moved to schedule a public hearing regarding the amended plan for Pinecliff Condominiums. This motion was seconded by Councilman Frank.

After further discussion, Councilman Ellison withdrew his motion to schedule a public hearing and Councilman Frank accepted.

Mr. Traber, developer of Pinecliff Condominium, said the erosion control problems have been eliminated. He said one of the reasons the roads are steep is that they have tried to save as many trees as possible and due to a water line in the area.

Considerable discussion was held relative to street grades in the City of Asheville.

Assistant City Manager Charles Penny said curbside garbage pickup would not be available to some residents in the project because of the danger the steep grades pose to the drivers and equipment.

Vice-Mayor Moore stongly opposed developments with grades of more than 12 percent.

After further discussion, City Council accepted the recommendation of the Planning and Zoning Commission by taking no action.

Report from Water Authority - Councilman Price

Councilman Price noted that the Policies and Procedures Committee of the Asheville-Buncombe Water Authority denied a request of Champion Finishing Company for an increase in water consumption by 300,000 gpd. She said it is anticipated that Champion Finishing Company will appeal that decision to the entire Authority.

She also reported actions taken by the Water Authority on the Mt. Carmel Water System and Water Conservation measures

Report on Street Grades

Council requested a report on street grades at next week's Pre-Council meeting and a tour to see street grades in the area.

Recognition of Hershery Track Meet Participants

Roy Harris, from Bartlett Street, requested that Council recognize the participants from W. C. Reid Recreation Center who competed in the Hershery Track Meet. He said the participants won first place in relay and first place in broad jump.

Council said they would be pleased to recognize the participants and requested that they come to next week's Council meeting.

Claims - Ralph Hollars (Sewer) - Patsy J. Miller (Sewer) - Deborah Gleeson (Sewer)

The City Manager presented claims received from Ralph Hollars, Patsy J. Miller and Deborah Gleeson.

Mayor Michalove referred the claims to the City Attorney for investigation and recommendation.

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 7:30 p.m.

H. M. Michalove
MAYOR

William F. Holcomb
CITY CLERK

Tuesday - July 24, 1990 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Norma T. Price
Councilman Wilhelmina Bratton arrived at 4:27 p.m.

INVOCATION

The invocation was given by Councilman Estes.

APPROVAL OF MINUTES

Mayor Michalove noted that approval of the minutes of the July 17, 1990 meeting has been withheld pending amendments.

I. PROCLAMATIONS:

A. **Proclamation - "Red Cross Swim-A-Cross Week" - July 28 - August 4, 1990 and Saturday, July 28 as "Celebrity Belly Flop Day".**

Mayor Michalove read the proclamation presenting a copy to John Teeter with the American Red Cross.

Mr. Teeter highlighted the events taking place during Swim-A-Cross Week and Celebrity Belly Flop Day.

B. **Resolution No. 90-101 - Resolution recognizing Hershey Track Meet Participants.**

Oralene Simmons with the Parks and Recreation Department said six (6) individuals from Asheville have placed first in their events at the N.C. Hershey Track Meet at Raleigh, N. C. The N.C. Hershey's Track and Field Meet, held in Raleigh, N.C., had a large number of entries from all of the state of North Carolina. The City of Asheville Parks and Recreation Department hosted the Western Region preliminary meet and the winners of this meet represented Western North Carolina at the state finals in Raleigh. Of those who represented the Asheville area, the following individuals were first place winners in their respective events:

11 and 12 boys 400 Meter - Gabriel Johnson

13 and 14 boys Standing Long Jump - John Avery

13 and 14 girls Standing Long Jump - Lanette McClain

13 and 14 girls 4 x 100 Relay - Avis Swinton
Adrian Smith
Nikivia Smith
Lanette McClain

Lanette McClain was invited last year to represent the Southeast Region at the Hershey Track and Field Meet National Finals in Hershey, Pennsylvania. There will be only five people from the Southeastern Region chosen to go to the Hershey finals and these have not yet been announced. However, we would like very much to congratulate these individuals for their outstanding performance in the state finals of the Hershey Track and Field Meet.

Mayor Michalove read the resolution of recognition and stated that each of the participants would receive a copy of the resolution.

Upon motion of Councilman Ellison, seconded by Councilman Frank, Resolution No. 90-101 was unanimously adopted.

Resolution Book No. 12 - Page 178

II. PUBLIC HEARINGS:

A. Public hearing relative to the closing of Beaumont Street between South Charlotte Street and South Market Street.

Mayor Michalove said the closing of this section of Beaumont will allow maximum usage of the area for the Public Works Operations Complex. Access from east end residential area will be available by one additional block of travel for both vehicles and pedestrians.

Mayor Michalove opened the public hearing at 4:13 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Jim Ewing, Director of Public Works, presented an area map showing the surrounding properties and major streets around Beaumont Street. He said in order to proceed with the construction of the Public Works Complex it is

advantageous to close Beaumont Street. He said a recent traffic count was conducted which revealed that Beaumont Street is a local and not a collector road. He said under the current design for the Public Works Complex it is necessary to close Beaumont Street and the Public Works Department is recommending the closing of Beaumont Street.

Councilman Ellison said it is his understanding that there were several street design plans dating back to 1970 which allowed for Beaumont Street to remain open. He said he would like to review these plans before voting on the closing of Beaumont Street.

Councilman Bratton arrived at the meeting at 4:27 p.m.

The City Manager highlighted the street design plans previously proposed for that area, placing emphasis on the southern loop which was proposed around the downtown area.

Gerald Green, from the Planning Department, said the Planning and Zoning Commission reviewed and recommended approval of the proposed Public Works Complex with one of the contingencies being the closing of Beaumont Street and Dixon Alley. He said the Asheville City Council previously approved the Public Works Complex as recommended by the Planning and Zoning Commission.

Carroll Hughes, from Spaceplan, Architect for the Public Works Complex, outlined the proposed facility. He said all Public Works activities are currently operating on South Charlotte Street. He said the proposed facility will centralize all divisions of the Public Works Department into one central location. He said several designs were reviewed, including one to close Beaumont and one to leave it open. He said due to safety, the proposed complex will not physically work if Beaumont remains open.

Mr. Hughes said a meeting was held with representatives of Mt. Zion Church about the complex but not regarding the closing of Beaumont Street. He said their main concern was the viewing of garbage trucks from their homes and the church.

Mr. Hughes said the complex would improve the appearance of property on Eagle Street and the redesign of Eagle Street would also help traffic in that area.

Larry Holt, Deputy Executive Director of the Housing Authority, said a presentation was made to the East End Community Club relative to the Public Works Complex. He

said the closing of Beaumont Street was addressed and a pedestrian walkway was suggested around the parking lot north of the administration building.

Mr. Holt said to his knowledge no formal presentation was made to the South Pack Square Committee regarding the Public Works Complex.

Council requested that Mr. Holt go back and review the plans in the Urban Renewal Projects and the 1977 plan for the Clingman/Valley Street Connector to determine the status of Beaumont Street at that time.

Wanda Henry Coleman, Executive Director of the YMI Cultural Center and a member of the South Pack Square Committee, said the closing of Beaumont Street should be carefully examined. She said Beaumont Street provides an important link between the East End and South Pack Square. She said these two areas were once a single large community that was split first by the widening of South Charlotte Street and now by the Public Works Complex. She said this link is important for the growth of black economic development. She presented petitions from the Mt. Zion Church and St. Johns Church as well as the NAACP requesting that Beaumont Street remain open.

Jim Samsel, Co-Chairman of the South Pack Square Committee and property owner on Biltmore Avenue, spoke in opposition to the closing of Beaumont Street. He presented documentation that Beaumont Street is heavily used for vehicular and pedestrian traffic.

Jay Stewart, 42-44 Biltmore Avenue, spoke in opposition to the closing of Beaumont Street.

Rev. John Calhoun, of St. John's Baptist Church, spoke in opposition to the closing of Beaumont Street. He said the Public Works facility should be placed in an industrial area rather than downtown.

John Grant, from the Mt. Zion Baptist Church, speaking on behalf of the members of the church, presented petitions in opposition to the closing of Beaumont Street. She said the City staff did not communicate the plans for the Public Works facility or the proposed closing of Beaumont Street. He said the members would like to have input into these decisions. He said Beaumont Street is used as an access by the members of the church and for funerals.

Minnie Jones said the Beaumont Street area is a historical landmark and should be preserved.

The City Manager indicated that if Beaumont Street remains open the Public Works Complex can not be constructed on the proposed site. He said the construction of the facility is a number one priority for the City of Asheville at the present time.

After further discussion, Mayor Michalove closed the public hearing at 5:40 p.m.

Vice-Mayor Moore moved that Council schedule a work session with the East End Community Club, the South Pack Square Committee, Planning Staff, and the Chairman of the Planning and Zoning Commission to discuss the proposed closing of Beaumont Street and the construction of the Public Works Complex. He said the meeting would be held at the YMI Cultural Center within the next forty (40) days. This motion was seconded by Councilman Ellison and carried unanimously.

Mayor Michalove said the date for the work session would be announced at next week's Council meeting.

B. Public hearing relative to an ordinance amending Chapter 19A of the Code of Ordinances of the City of Asheville (Personnel Ordinance).

Mayor Michalove said a draft comprehensive Personnel Ordinance has been developed. It incorporates the recommendations of several employee committees. The ordinance will be supplemented by Civil Service Rules and Regulations and City-wide personnel policies.

Mayor Michalove opened the public hearing at 5:47 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Mayor Michalove said comments would be taken at this public hearing as well as written comments and Council would schedule and announce the first reading of the ordinance at a later date.

Pam McGrayne, Personnel Director, explained the process used to develop the proposed Personnel Ordinance. She said in September, 1988 eight (8) employee committees were established to review current personnel policies and to make recommendations for inclusion in the Personnel Ordinance. She said the proposed ordinance has been presented to the Civil Service Board, department heads, and employees. She said employee sessions regarding the ordinance were not mandatory but there was good participation.

Ms. McGrayne said the Civil Service Board, on a vote of 3-2 approved the substance of the ordinance. She said they felt the context of the ordinance should be included as part of the Civil Service Rules and Regulations.

Mrs. McGrayne said flyers were distributed to each employee notifying them of this public hearing as well as posters displayed in many locations.

Larry Bopp, Director of Information Services, said he served as Chairman of the Conditions for Employment Committee, which was represented by seven departments. He said his committee surveyed ten other North Carolina cities as well as city employees to come up with recommendations for conditions for employment.

Jack Ramsey, Fire Department employee, Chairman of the Leave Committee, said his committee also surveyed other cities, state and federal governments, as well as private enterprise to come up with recommendations for leave time for city employees.

Mike Holcombe, from the Water Department, said he was Chairman of the Hiring Process Committee. He said his committee reviewed existing Civil Service Rules and Policies, the hiring process of four other southeastern cities, as well as the federal employment selection process in order to come up with recommendations that would be fair to the employee and the employer.

David McFee, President of the Asheville Firefighters Association, pointed out that if Council adopts the Personnel Ordinance employees would have two sets of rules and regulations. He said the employees of the City do not want the Civil Service Law abolished. He said the proposed rules and regulations in the Personnel Ordinance could be incorporated into the Civil Service Law.

Mr. McFee pointed out several sections of the proposed ordinance that needed Council's attention. He said the ordinance leaves payroll deductions at the discretion of the City Manager. He said on several occasions the Asheville Firefighters Association has been denied payroll deduction for dues. He said the Fraternal Order of Firefighters and the Fraternal Order of Police have payroll deductions for dues.

He made comments relative to the following sections of the proposed ordinance:

Section 19A-22 - Employee Procedures - Promotion Process - as far as drug testing is concerned should be

conducted on a fair basis. He said blood tests are accurate; however, urine test are not accurate.

Section 19A-26 - immediate family - hiring - should be clearly defined.

Section 19A-41 - the right to use sick leave or vacation as a supplement to worker's compensation is being taken away and they are in opposition to that amendment.

Section 19A-55 - Disability should be determined by a doctor rather than by the Personnel Director.

Section 19A-60 - Unsatisfactory Job Performance - should be better defined. He said an employee should not be disciplined or dismissed because of being physically or mentally incapacitated. He said there could be a fine line in determining discourteous treatment to coworkers. He said inappropriate personal conduct should be better defined.

Section 19A-68 (3) - The selection of a Grievance Committee should also include the selection of members by an employee and not just the City Manager.

Glen Holcombe, Secretary-Treasurer of the Asheville Firefighters Association, said the amendment to the Workers Compensation section is a reduction in benefits. He said provisions in the current grievance procedure should be carried forward into the new ordinance, particularly referring to retroactive action. He also said the Association should be allowed payroll deductions for dues. He said the Personnel Ordinance should be a part of the Civil Service Rules and Regulations and not a separate document.

Bob Lovin, Captain at the Fire Department, requested that additional leave time be allowed for employees in the National Guard and Reserves.

Chief John Rukavina, Chairman of the Discipline and Grievance Committee, said his committee reviewed the Civil Service law and the current grievance procedure in coming up with recommendations.

Fred McKenzie, from the Inspections Division, asked Council to take a close look at Section 19A-34 relative to residency requirements. He commented that this requirement is frequently changed and employees need to be assured what the regulation will be for the future.

Shelia Fellerath, member of the Civil Service Board, commented that there could be a serious potential conflict if the proposed personnel ordinance is not made a part of the Civil Service Law.

Mayor Michalove closed the public hearing at 6:33 p.m.

Mayor Michalove said members of Council would take the comments under advisement and schedule the first reading of the ordinance at a later date. He said employees would be notified of the date prior to Council taking any action on the ordinance.

C. Public hearing for the financing of a radio communication system.

Resolution No. 90-102 - Resolution authorizing filing an application with the North Carolina Local Government Commission for a proposed financing agreement for radio system acquisition and designating the authorized representative of the City to file the application.

Mayor Michalove opened the public hearing at 6:34 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

The City Manager said this resolution will provide for an application to the Local Government Commission for a lease/purchase arrangement for the acquisition of a radio communication system for the City. He said it is proposed that the financing will be through First Wachovia Leasing in the amount of $1.6 million for seven (7) years at a rate of 6.9972.

There being no comments, Mayor Michalove closed the public hearing at 6:37 p.m.

Mayor Michalove said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Ellison, seconded by Councilman Estes, Resolution No. 90-102 was unanimously adopted.

Resolution Book 18 - Page 179-180

III. OLD BUSINESS:

IV. NEW BUSINESS:

A. Resolution No. 90-103 - Resolution authorizing request for a Planning and Development Grant from Z. Smith Reynolds Foundation for a Downtown Urban Trail.

The City Manager said the City has taken the lead in organizing 9 organizations in developing a concept for an urban trail project. The trail would be in the core area of the downtown and tell of the social, political, cultural and architectural history of Asheville -- an experimental local history museum. The grant would provide a consultant to design the direction of historical research and an oral history component.

Upon inquiry of Council, the City Manager said the grants would be in the amount of $9,000 from the Z. Smith Reynolds Foundation and $750 from the N. C. Humanities Council. He said the City's obligation at the present is $5,000. He said the City is not obligating to provide funds for the continuation of the project beyond the design stage.

Mayor Michalove said Council is proceeding cautiously in this action noting that the Council is not making any assurances for continuation of the this project beyond the $5,000 commitment for the design.

Mayor Michalove said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Vice-Mayor Moore, seconded by Councilman Bratton, Resolution No. 90-103 was unanimously adopted.

Resolution Book 18 - Page 181

B. **Ordinance No. 1862 - Budget Ordinance Amendment - Year-End Capital Budget Amendments.**

The City Manager said these amendments will incorporate "cleanup" capital budget revisions into the Accounting System. These amendments transfer money appropriated for Capital Projects form the Capital Reserve Fund into the Project Fund.

Mayor Michalove said copies of the ordinance were previously furnished to members of Council and it would not be read in its entirety.

Vice-Mayor Moore moved for the adoption of Ordinance No. 1862. This motion was seconded by Councilman Frank.

On a roll call vote of 6-0, Ordinance No. 1862 passed on first and final reading.

Ordinance Book No. 12 - Page 183

C. Sale of Disposal Parcels 48, 144, 145, and 198 in the East End/Valley Street Community Improvement Program.

The City Manager said the Housing Authority has accepted a bid on the above mentioned parcels from American Home Services, a partnership composed of David M. Dunn, Barney P. Woodard, Jr., J. William Mills and Charles S. Pinkerton. The bid in the amount of $89,400.00 is equal to the total minimum price for the four parcels which have a combined area of 4.467 acres. The bid includes a proposal to construct 44 one bedroom apartments dedicated to low-income, elderly occupancy. The proposed redevelopment is in accordance with the East End/Valley Street Community Improvement Program.

Councilman Ellison moved to approve the sale of Disposal Parcels 48, 144, 145, and 198 in the East End/Valley Street Community Improvement Program as recommended by the Housing Authority. This motion was seconded by Councilman Estes and carried unanimously.

V. CONSENT:

A. **Resolution No. 90-104 - Resolution appointing member to the Disability Review Board.**

SUMMARY: The term of office of Captain J. M. Coffey as a member of the City of Asheville Police Officers and Firefighters Disability Review Board will expire on June 19, 1990. This resolution will appoint Phyllis F. Martin to the City of Asheville Police Officers and Firefighters Disability Review Board for a term of 2 years, term expiring on July 19, 1992, or until her successor is duly appointed and qualified.

Resolution Book 18 - Page 182

B. **Resolution No. 90-105 - Resolution appointing member to the Asheville Area Civic Center Commission.**

SUMMARY: The term of office of Sally Pearlman, as a member of the Asheville Area Civic Center Commission, expired June 30, 1990. This resolution will appoint Richard Schumacher to the Asheville Area Civic Center Commission for a 3 year term, term expiring on June 30, 1993, or until his successor is duly appointed and qualified.

Resolution Book 18 - Page 183

C. Resolution No. 90-106 - Resolution authorizing the City Manager to execute a contract with Hobson Construction Company for replacement of the Murdock Avenue Bridge over Reed Creek.

SUMMARY: Sealed bids were opened in the Director of Public Works Office at 10:00 a.m. July 17, 1990. Four bids were received for the Murdock Avenue Bridge Replacement Project. Hobson Construction Company was low bidder in the amount of $156,587.84. The low bid received from Hobson Construction Company was 27.4% below the engineer's estimate.

BIDS (4)

Hobson Construction Company	$156,587.84
Tennoca Construction Company	$171,178.10
Lyons Construction Company	$228,120.00
Buncombe Construction Company	$247,279.94

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D. Resolution No. 90-107 - Resolution authorizing the Mayor - to execute a contract with Taylor & Murphy Construction Company for replacement of the Hazel Mill Road Bridge over Southern Railway.

SUMMARY: Sealed bids were opened in the Director of Public Works Office at 10:00 a.m. July 17, 1990. Seven bids were received for the Hazel Mill Road Bridge Replacement Project. Taylor and Murphy Construction Company was low bidder in the amount of $316,001.08. The low bid received from Taylor and Murphy Construction Company was 40.7% below the engineer's estimate.

BIDS (7)

Taylor & Murphy Construction	$316,001.08
Hobson Construction Company	$324,980.45
Simpson Construction Company	$330,442.41
Lyons Construction Company	$347,353.42
Dellinger, Inc.	$352,762.45

Crowder Construction Company	$379,875.95
Buncombe Construction Company	$443,448.81

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E. Resolution No. 90-108 - Resolution authorizing the Mayor to execute a contract with Taylor & Murphy Construction Company for replacement of the Thompson Street Bridge over Sweeten Creek.

SUMMARY: Sealed bids were opened in the Director of Public Works Office at 10:00 a.m. July 17, 1990. Three bids were received for the Thompson Street Bridge over Sweeten Creek. Taylor and Murphy Construction Company was low bidder in the amount of $162,247.36. The low bid received from Taylor and Murphy Construction Company was 17.3% below the engineer's estimate.

BIDS (3)

Taylor & Murphy Construction	$162,247.36
Buncombe Construction Company	$167,731.74
Apple Tuck & Associates, Inc.	$183,682.89

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Upon motion of Councilman Frank, seconded by Councilman Ellison, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

A. Report from Sign Revision Committee

Vice-Mayor Moore, Chairman of the Sign Revision Committee, made the following report to Council:

The Mayor's Sign Ordinance Revision Committee met at 10 a.m., Friday, July 20, in City Hall. Present were: Members Moore, Frank, Grant, Moser and Plemmons; Staff Members Slawter, Penny, and Cogburn.

The following decisions were reached:

1. The public forum on experience to date with the sign ordinance will be held at 5:30 p.m. on Tuesday, July 31, 1990, following a regular City Council meeting at 4 p.m. Both meetings will be held in the Banquet Room of the Civic Center.

2. Present and at the center head table for the Forum will be the members of the Mayor's Sign Ordinance Revision Committee. Appropriate city staff members will be seated at a side head table. All members of council not members of the Sign Ordinance Committee will be urged to remain for the forum as observers and will be seated at another side head table.

3. Discussion at the Forum will be restricted as much as possible to SPECIFIC questions and observations about the ordinance. Speakers will be directed to discuss specifics and to confine their remarks to three minutes unless the chairman sees a valid reason for extending the time.

4. A representative of the Planning Department will be assigned to list the names of speakers who voice specific questions or complaints about the ordinance. The Planning Department also will obtain speakers' phone numbers and mailing addresses so that questions and observations that cannot be answered during the forum because of the press of time can be addressed later.

5. The Forum will be recessed for 30 minutes at approximately 7 p.m. to allow committee and staff members time for a break and some refreshments. The Forum will continue until all present have been given an opportunity to speak.

6. The Planning Department aided by City Clerk will be responsible for advertising the Forum and for the room arrangements.

Following the Forum, the Planning Department will:

1. Start on the task of answering all questions from city sign owners unanswered during the Forum.

2. Collate the most common and/or most significant questions problems aired during the Forum and by the Planning Department since the ordinance took effect.

3. Prepare a report to be used by the committee during its deliberations.

Because of pending vacations and other commitments, the Sign Ordinance Committee will not meet after the Forum until 10 a.m., Monday, August 13. At that time, the Committee will be required to answer two questions. They are:

1. Is any revision necessary?

2. If the answer is yes, what revisions should be made?

The Committee's recommendations will be presented to City Council at its Tuesday, August 14th, meeting.

If the decision is to revise the ordinance in any part, the process that will follow will involve a joint public hearing before City Council and the Planning and Zoning Commission, public notices of the hearing, readoption by City Council, of the revised ordinance, and a reopening of the 9-month window in which sign owners may file suit.

If the Sign Ordinance Committee does recommend revision, a step-by-step process for accomplishing that will be presented by the Committee to council along with the recommendation to revise.

B. **Ordinance No. 1863 - Budget Ordinance Amendment - Bridge Replacement Projects**

The City Manager presented a budget ordinance amendment appropriating funds for the Murdock Avenue Bridge Project, the Hazel Mill Road Bridge Project, and the Thompson Street Bridge Project. He said 80% of the projects would be funded by the federal government.

Councilman Frank moved for the adoption of Ordinance No. 1863. This motion was seconded by Councilman Frank.

On a roll call vote of 6-0, Ordinance No. 1863 passed on first and final reading.

Ordinance Book No. 12 - Page 184

C. **City Council Meeting - July 31, 1990 - Civic Center Banquet Room**

Mayor Michalove announced that the regularly scheduled meeting for the Asheville City Council for July 31, 1990 will be held at the Asheville Civic Center Banquet Room.

D. **Request of Kitty Boneski - Appropriations for Visits to Vladikavkaz, USSR in connection with the Sister City Program**

Upon the request of Kitty Boneski and after discussion, Vice-Mayor Moore moved that the City of Asheville assume financial responsibility for three delegates from Vladikavkaz, USSR coming to the States in April, 1991. The financial responsibility would be transportation from Washington DC to Asheville and return plus pocket money. He further moved that Councilman Wilhelmina Bratton, Carol Alberice and Gerald Green from the Planning Department be the City's official representatives to visit Vladikavkaz in September, 1990. This motion was seconded by Councilman Frank and carried unanimously.

E. **Report - Janitorial Contract - City Hall Building**

The City Manager said negotiations for the Janitorial Contract have been concluded with Luxury Services. The negotiated contract price is $49,900. This amount is equal to $.83 per square foot. The amount is higher than the average which is approximately $.65; however, it does not make the city contract the highest in the downtown area. The starting date for the janitorial services will be sometime in early August.

F. June Grant - Damage to Fuddrucker's Sign

June Grant expressed concern relative to the recent vandalism to the Fuddrucker's business sign on Charlotte Street. She said the business sign was legal at the present time until due process of law has expired.

Vice-Mayor Moore said Council does not take the vandalism action lightly and the incident would be very carefully investigated by the Asheville Police Department.

Chris Johanson also expressed concern about the damage done to the Fuddrucker's business sign.

G. Request for funding - War on Drug Commission - Pete DeSaix

Rev. Pete Banyai reported to Council that the Buncombe County Commissioners have agreed to fund the War on Drug Commission in the amount of $50,000. He again appealed to Council for the City to help fund the War on Drug Commission.

Councilman Ellison and Councilman Bratton said they wanted to be assured that any funds the City appropriates to the Drug Commission would be for the direct use of a program and would benefit the people and efforts intended.

Claims - Charles Lawrence (Water) - Tara Morris (Streets) - Jodi Lunsford (Streets) - Peggy Bornemann (Planning) - City of Asheville - Laura Gentry (Water)

The City Manager said the claims were received from Charles Lawrence, Tara Morris, Jodi Lunsford, Peggy Bornemann, City of Asheville, and Laura Gentry.

Mayor Michalove referred the claims to the City Attorney for investigation and recommendation.

Lawsuit - Florence Robbs - Fall/Water Meter Box

The City Manager said the City was served with a lawsuit on July 18, 1990 involving Florence Robbs (Fall when shoe caught lid of water meter box).

Mayor Michalove referred the lawsuit to the City Attorney for investigation and recommendation.

CONTINUATION OF NEW BUSINESS

D. Appeal of Charles Parker - Disability Review Board.

Vice-Mayor Moore announced that, since he had participated in the deliberations and decision of the Disability Review Board concerning the request of Mr. Parker, he would ask to be excused from participation in the consideration of this matter by the City Council in order to avoid the possibility of a conflict of interest. Upon motion of Councilman Bratton, seconded by Councilman Frank, the City Council voted unanimously to excuse Vice-Mayor Moore from participation in consideration of this matter.

Mr. Parker was present at the City Council meeting for the presentation of his appeal, and was represented by his attorney, Joseph A. Ferikes. Following the presentation on behalf of Mr. Parker, the City Council held an executive session to discuss the merits of Mr. Parker's claim, which executive session was called for by motion of Councilman Ellison, seconded by Councilman Estes, and adopted unanimously by the City Council. Following deliberations in executive session, the City Council returned to open session and upon a unanimous vote of 5-0 voted to allow Mr. Parker's appeal and grant him supplemental benefits, based upon Findings of Fact and Conclusions of Law to be prepared by the City Attorney and approved by the City Council. A copy of the transcript of proceedings is on file in the Office of the City Clerk.

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 8:00 p.m.

H. M. Michalove
MAYOR

William F. Metcalf
CITY CLERK

Tuesday - July 31, 1990 - 4:00 P.M.

ASHEVILLE CIVIC CENTER - BANQUET ROOM

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Wilhelmina Bratton

INVOCATION

The invocation was given by Councilman Frank.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the minutes of the July 17, 1990 and July 24, 1990 meeting with several corrections.

I. PROCLAMATIONS:

A. Recognized - Former Miss N.C. Connie Lerner Adams

Mayor Michalove recognized former Miss N. C. Connie Lerner Adams and her two children.

B. Certificate of Achievement - Becky Gudger - City Manager Intern

The City Manager recognized Becky Gudger for completing the first quarter City Manager Internship. He presented Ms. Gudger with a framed Certificate.

The City Manager also recognized the City Manager Intern Committee members.

II. PUBLIC HEARINGS:

III. OLD BUSINESS:

IV. NEW BUSINESS:

A. Resolution No. 90-109 - Resolution amending Fees and Charges Manual.

The City Manager said this amendment increases Civic Center Parking Garage rates and establishes a Certificate of Occupancy inspection fee. He said these fees were approved during the budget process and being implemented.

Mayor Michalove said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Vice-Mayor Moore moved for the adoption of Resolution No. 90-109. This motion was seconded by Councilman Frank.

After discussion, Councilman Ellison moved that the language "This fee includes one re-inspection, if necessary" be deleted from the Fees and Charges Manual regarding the rate schedule for Certificate of Occupancy Inspection Fees. He said Council's intent is that there be a one time inspection fee for a Certificate of Occupancy of $15.00. This motion was seconded by Vice-Mayor Moore and carried unanimously.

On a voice vote, Resolution No. 90-109 was unanimously adopted.

Resolution Book 18 - Page 187

V. CONSENT:

A. Motion scheduling public hearing relative to amendment of Hillside Ordinance for August 21, 1990.

SUMMARY: Ordinance amending the Hillside Development Requirements as set forth in Ordinance No. 631. The proposed amendments would assure that graded areas are distributed throughout the site and extend the Hillside Development Regulations to subdivisions.

Mayor Michalove requested that the Home Builders Association, Chamber of Commerce, and the Council of Independent Business Owners be notified of the public hearing relative to Hillside Development.

Upon motion of Councilman Price, seconded by Councilman Ellison, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

Claims - Esfandiar Ostovar (Water) - John Frye (Water) - Lisa Young (Water) - City of Asheville (Damage to City Vehicle) - City of Asheville (Damage to City Property) - Southern Bell (Sewer) - Bill Sisk (Sewer)

The City Manager said claims were received from Esfandiar Ostovar, John Frye, Lisa Young, City of Asheville, City of Asheville, Southern Bell and Bill Sisk.

Mayor Michalove referred the claims to the City Attorney for investigation and recommendation.

Bele Chere - Comments by Council

Vice-Mayor Moore commended the city staff for conducting a successful 1990 Bele Chere.

Patty Tallerday - Planning Department - Certified Planner

Julia Cogburn, Director of Planning, announced that Patty Tallerday, Senior Planner, had successfully passed the examination for Certified Planner through the American Institute of Certified Planners.

Announcement - Meeting relative to the closing of Beaumont Street

Mayor Michalove said Council will hold a meeting at the YMI Cultural Offices on September 6, 1990 at 5:30 p.m. to discuss the proposed closing of Beaumont Street. He requested that all appropriate groups be notified including the East End Community Club and the South Pack Square Committee.

Ralph Bishop - Lottery Sales

Ralph Bishop again spoke to members of Council relative to lottery sales in the City of Asheville.

Announcement - Sign Ordinance Forum

Mayor Michalove announced that the Council Sign Revision Committee, chaired by Vice-Mayor Moore, will conduct a Sign Ordinance Forum at 5:30 p.m. today in the Asheville Civic Center Banquet Room.

VII. ADJOURNMENT:

Mayor Michalove adjourned the meeting at 4:30 p.m.

H. M. Michalove
MAYOR

Miriam F. Metcalf
CITY CLERK

Tuesday - August 7, 1990 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Vice-Mayor William G. Moore

INVOCATION

The invocation was given by Councilman Bratton.

APPROVAL OF THE MINUTES

Mayor Michalove announced the approval of the minutes of the July 31, 1990 meeting as submitted.

I. PROCLAMATIONS:

A. Presentation of Certificate for "B E S T" Quarterly Winner.

The City Manager said Gary Willis from the Sanitation Department was chosen by the "B E S T" Committee to receive the "B E S T" Quarterly Winner Award. He said Mr. Willis was chosen out of 14 candidates considered.

He said every week Mr. Willis waives to a little girl as he passes her house while on his routine pickup route. This makes the little girl very happy that he takes the time to do this week after week. He said Mr. Willis has received several compliments through the Public Response Center and these extra efforts creates an excellent example for Customer Relations.

The City Manager presented Mr. Willis a Certificate for being the "B E S T" Quarterly Winner.

The City Manager also introduced the little girl to members of Council.

II. PUBLIC HEARINGS:

A. Public hearing relative to closing a portion of Beaver Drive.

Mayor Michalove opened the public hearing at 4:08 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Jim Ewing, Director of Public Works, said a petition signed by all property owners along the unopened portion of Beaver Drive has been received. There would be no adverse effects from closing the right of way. The Lake View Park Commission has been notified of the proposed closing.

He said there are no utilities in the portion proposed to be closed and the Public Works Department recommends that the request be granted.

June McCracken, adjoining property owner, said if Beaver Drive is closed as proposed and the property is divided among the property owners her driveway will be on another's property.

Joe Lamy, property owner, spoke in support of the closing of Beaver Drive. He said he would have no problem with Ms. McCracken keeping her driveway on her property.

After discussion, Councilman Price moved to continue the public hearing for two (2) weeks, August 21,1990, without further advertisement, giving the Public Works Department an opportunity to survey Ms. McCracken's driveway and legally describe the portion of Beaver Drive to be closed allowing the road with Ms. McCracken's driveway to remain open. This motion was seconded by Councilman Frank and carried unanimously.

B. **Continuation of a public hearing relative to the Cottages at Richmond Hill Inn.**

Mayor Michalove said this public hearing was continued from the July 17, 1990 meeting.

Gerald Green, from the Planning Department, said the Planning Staff is still working with the developer on the project. He said the staff and the developer mutually request that the public hearing be continued for six (6) weeks.

Councilman Frank moved to continue the public hearing for six (6) weeks, September 18, 1990, without further advertisement. This motion was seconded by Councilman Price and carried unanimously.

III. OLD BUSINESS:

IV. NEW BUSINESS:

A. Ordinance relative to an ordinance amending Chapter 19A of the Code of Ordinances of the City of Asheville (Personnel Ordinance).

Mayor Michalove said a draft comprehensive Personnel Ordinance has been developed. It incorporates the recommendations of several employee committees. The ordinance will be supplemented by Civil Service Rules and Regulations and City-wide personnel policies.

The City Manager said there are several unresolved questions regarding the Personnel Ordinance and these questions are currently being addressed by the employee committees.

A discussion was held, initiated by Councilman Estes, relative to payroll deductions for various organizations.

The City Manager said there is a current policy that was implemented in 1979 which allows for payroll deductions when the deduction applies to all city employees. He said the separate organizations that currently have payroll deductions for dues was granted that privilege in the early 1960's. He this concern needs to be addressed as a separate policy and be consistent.

It was the consensus of Council that the policy should be fair and consistent.

Councilman Estes said he felt the City should provide whatever days were needed for military leave.

Pam McGrayne, Personnel Director, said the Leave Committee reviewed comparable leave schedules and recommended a package they felt would be in the best interest of the City.

Councilman Ellison, referring to Civil Service Member Shelia Fellerath's statement made during the public hearing, said there should not be any dissention between the Civil Service Board relative to the Civil Service Law and the proposed Personnel Ordinance. He said there should be a clear cut understanding of their respective responsibilities.

Upon inquiry of Councilman Ellison, the City Manager said the budget package for the proposed Personnel Ordinance has not been put together.

Councilman Ellison said he would like to have a report from the City Manager defining the relationship between the Civil Service Board and the proposed Personnel Ordinance as well as policies and rules and regulations.

Mayor Michalove and several members of Council said they were not prepared at this time to take action on the ordinance.

Mayor Michalove suggested that the proposed Personnel Ordinance be discussed during Council's scheduled midyear retreat.

V. CONSENT:

VI. OTHER BUSINESS:

Councilman Estes - Sale of Biltmore School Property

Councilman Estes said when the Biltmore School property is sold the City of Asheville will be losing a valuable playground area. He said he felt when a government agency decides to take such action they should involve other government entities. He said this action will cost the City of Asheville in order to replace this playground.

Councilman Price requested a report from the City Manager regarding recreation in the south part of town, particularly as it relates to the use of the playground at Biltmore School.

It was decided that the Mayor would write a letter to the County of Buncombe advising them of the impact the loss of this playground would have on the City of Asheville.

Councilman Ellison - Loud Music - Congregation of Gangs

Councilman Ellison expressed concern about the loud music being played in automobiles. He said he was also concerned about the number of gangs hanging out on the streets. He suggested that a Police Task Force be formed to look into these situations before they get out of hand.

Mayor Michalove said the Citizen's Police Advisory Committee has recommended that the committee be expanded in order to look into similar situations.

Councilman Bratton said the city is in need of wholesome activities for the children.

Announcement - Approval of Radio Communication System Financing

The City Manager announced that the Local Government Commission has approved the application for the Radio Communication System Financing.

Demolition of 3 and 5 Walton Street

Charles Penny, Assistant City Manager, noted that 3 and 5 Walton Street has been demolished. He said members of Council previously expressed concern about these houses.

Ralph Bishop - Lottery Sales

Ralph Bishop again spoke to members of Council relative to lottery sales in the City of Asheville.

Street Vendor - Concerns about insurance requirement

A resident of 116 West Chestnut Street said he was a local street vendor. He said he has a cart and sells flowers on the streets. He expressed concern about the City's requirement for liability insurance for street vendors. He said he felt the amount of insurance required is exorbitant for a small vendor. He said the amount of insurance should be based on the type of cart, the type of business, and the income of the vendor.

He also expressed concern about the drugs on the streets. He said the Police Department should be more aware of certain areas in the city and the penalties should be made more unattractive.

VII. ADJOURNMENT

Councilman Frank moved to adjourn the meeting to executive session to discuss a property matter. This motion was seconded by Councilman Bratton and carried unanimously.

H. Ke. Nicholson
MAYOR

Brenda F. Walcott
CITY CLERK

Tuesday - August 14, 1990 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Vice-Mayor Moore.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the minutes of the August 7, 1990 meeting as submitted.

I. PROCLAMATIONS:

II. PUBLIC HEARINGS:

V. NEW BUSINESS:

A. 2010 Asheville City Plan - Bi-Annual Report

Mike Moser, Chairman of the Planning and Zoning Commission, presented the Monitoring Report of the 2010 Plan which included the accomplishments of the 2010 Plan. He said this report covers the period from January - June, 1990.

He said in the past these reports have expressly outlined the accomplishments. He said the Plan has had many accomplishments over the past six (6) months, however he wanted to emphasize the importance of completing many of the projects in the plan that have seemed to lag behind. He specifically mentioned the Downtown Design Review, the Sign Ordinance, Annexations, Unified Development Plan, Water Source, Formulated Industrial Parks, Commercial Hubs, Economic Development Partnership and the Airport Clean Up Project.

A copy of the Monitoring Report of the 2010 Plan for January - June, 1990 is on file in the Office of the City Clerk.

After discussion, it was decided that a joint letter from the Mayor and the Chairman of the Planning and Zoning

Commission would be sent to the various agencies and departments expressing the importance of completing some of these projects.

III. OLD BUSINESS:

A. Continuation of a public hearing relative to the closing of Academy and Center Street at their intersection with Hendersonville Road.

Mayor Michalove said the N. C. Department of Transportation's designs for improvements to Hendersonville Road would result in excessive grades and additional right-of-way to connect Academy Street and Center Street to the new roadway. Closing these streets, where they intersect with Hendersonville Road, will eliminate the excessive grades and the need for additional right-of-way acquisition, but will still provide access to Hendersonville Road via Yorkshire and Fairview Streets. This public hearing was held on July 17, 1990 and after discussion was continued until August 14, 1990 to obtain additional information.

Mayor Michalove said members of Council toured the Hendersonville Road Widening Project area.

Charles Penny, Assistant City Manager, said the City staff recommends the closing of Academy and Center, as requested by the North Carolina Department of Transportation. Failure to close the two streets will result in excessive street grades, and in order to meet the City's 12 percent grade requirement, the state would have to purchase more properties on each street to construct the streets to our grade requirements. He said if the streets are closed, staff recommends that improvements be made on Reed Street from Yorkshire to West Chapel. The improvements would include resurfacing Reed Street; realigning the intersection at Reed and Academy; improving the intersection at Yorkshire and Reed Streets; and providing maintenance to the drainage ditch on Reed Street. The City staff would also request that the state investigate the feasibility of installing a hammerhead turnaround on Center Street. He said the estimated cost to accomplish these recommendations is $40,000.

Joe Buckner with the North Carolina Department of Transportation reviewed the plans for the intersection of Academy and Center Streets as it relates to the Hendersonville Road Widening Project. He answered general questions from members of Council. He said all streets intersecting with Hendersonville Road will be widened and paved.

A discussion was held relative to the storm drainage on Center and Reed Street.

Mr. Penny said traffic counts were taken at various locations and the City staff would recommend to the state that traffic signals be installed at Yorkshire Street and West Chapel Road. He said it was his understanding that the state would consider these signals on completion of the project and if the area warrants traffic signals.

Attorney Robert Dungan, representing the owners of the Christmas Shop on Hendersonville Road at Center Street, requested that the plans for the closing of the intersection be changed to allow his client access into his business.

Mayor Michalove closed the public hearing at 6:45 p.m.

After further discussion it was decided that action on the resolution would be postponed until August 28, 1990 giving the City Manager an opportunity to look into Attorney Dungan's request and to meet with the NCDOT to see if the request is feasible. During the interim, language could be incorporated in the resolution to reflect Council's intent to allow the NCDOT to dead end Academy and Center Street, providing for a cul-de-sac at the end of the streets; and to permit a driveway into the Christmas Shop.

It was recommended that the state be requested to install traffic signals at West Chapel Road.

Widening of Hendersonville Road Project

Mayor Michalove reported that members of Council toured the site and construction markers for the Hendersonville Road Widening Project.

Charles Penny, Assistant City Manager, reported that there are no plans to go behind the Fire Station to provide parking. He said extra parking would be provided on the south side of the building. He said the project would create very minimal changes at the Fire Station.

Mayor Michalove outlined a letter from Gene Edmonds, Division Engineer with the North Carolina Department of Transportation, answering general questions regarding the project. He noted that the letter stated that a request to allow parking on project on Sunday from 10:00 a.m. to 1:00 p.m. at Biltmore Baptist Church is not recommended; no property has been purchased; the funding ratio for the project is 75% federal and 25% state; due to environmental impact, switching from federal to non-federal funding of the project would not be allowed; historic area still has to be preserved no matter if federal or non-federal funds are used; Utilities- Carolina Power and Light Company will be reimbursed approximately $125,500, Southern Bell will be reimbursed approximately $271,000, no reimbursement for Cable TV and Public Gas, water and sewer by contract to be reimbursed 100% by the City of Asheville.

Mayor Michalove said at the request of Polly Hickling the City Staff contacted a representative of Don Klema's office, Director of the Eastern Office of the Advisory Council on Historic Preservation in Washington, D.C. to determine if the Council could change or alter the boundaries of an historic district as it has been determined eligible for the National Register thus allowing the state to take property on the Biltmore Forest side of Hendersonville Road for the widening.

Kent Newell, Director of Historic Resources, said the Advisory Council has the responsibility to review and comment on all federally funded projects that impact on historic resources. The Advisory Council provides interagency mediation for the mitigation adverse impacts on historic resources. He said the Advisory Council could evaluate on the DOT and FHWA project as to its impact on the National Register Eligible Biltmore Forest Historic District; however, the Council does not have the authority to change or alter the boundaries of a historic district.

Mayor Michalove said he had also be in contact with the Mayor of Biltmore Forest regarding this matter. He said the Mayor of Biltmore Forest said to date they had not received a formal request to rezone the Biltmore Forest side of Hendersonville Road to commercial. He said the Mayor further noted that one Council could not bind another Council on issues. He said the Mayor also responded that proceeding with an official historic designation for Biltmore Forest was not an expense they had budgeted for.

Mayor Michalove commented that the Hendersonville Road Widening Project has been in the making for twenty (20) years and is really needed. He said if NCDOT is requested to change the plans the project could be delayed even further. He said he would recommend that the project proceed.

Polly Hickling and Tommy Koontz thanked the Mayor and members of Council for their time and effort on the project and said it was up to the neighborhood as to what direction to take regarding the project.

V. NEW BUSINESS CONTINUED

B. Bids for Motor Vehicles for Police Department.

The City Manager submitted a recommendation to award to low bidder, Matthews Ford, Inc., Asheville, North Carolina, in the amount of $179,387.00 for the purchase of thirteen (13) each 1991 Ford Crown Victoria, police cruisers.

Councilman Ellison moved to accept the recommendation to award the bid for the thirteen (13) police cruisers to Matthews Ford, Inc. This motion was seconded by Vice-Mayor Moore and carried unanimously.

A complete bid summary is on file in the Office of the City Clerk.

C. **Resolution No. 90-111 - Resolution making certain findings and authorizing the signing of documents related to the installment purchase acquisition of the City's Radio Communication System.**

The City Manager said Council has previously approved the funding of the City's new radio communication system via an installment purchase contract with First Wachovia Leasing Corporation. This resolution acknowledges the approval of the North Carolina Local Government Commission of this arrangement and authorized the signing of the documents.

Mayor Michalove said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Estes, seconded by Councilman Frank, Resolution No. 90-111 was unanimously adopted.

Resolution Book No. 18 - Page 190-191

D. **Resolution No. 90-112 - Resolution authorizing the Mayor to execute a non-warranty deed relinquishing the City's easement on the site of the former Peach Knob Reservoir.**

The City Manager said the City of Asheville has a waterline and reservoir easement upon property owned by Lawrence B. Farr and wife, Michelle Rippon. The reservoir site is the former location of the Peach Knob Reservoir, which is no longer in use. The owners of the property have requested that the City relinquish its easement in the reservoir site, while retaining the 10-foot waterline easement that crosses their property. This resolution will authorize the Mayor to execute a deed to accomplish this purpose. Neither the City nor the Asheville-Buncombe Water Authority has any further need for the easement.

Mayor Michalove said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Estes, seconded by Councilman Frank, Resolution No. 90-112 was unanimously adopted.

Resolution Book No. 18 - Page 192

E. **Report of Sign Revision Committee.**

Vice-Mayor Moore, Chairman of the Sign Ordinance Revision Committee said the committee met on August 13, 1990 to discuss six (6) items concerning the Sign Ordinance. He said several items could not be resolved pending legal language needed regarding banners and further discussion of technical corrections. He said the committee will meet again on August 15, 1990 and a final report will be given at next week's Council meeting.

He said it is anticipated that a public hearing will be scheduled to readopt the Sign Ordinance with several amendments in order to allow individuals additional time to determine if they want to contest the Sign Ordinance regulations. He said the last day the current Sign Ordinance can be contested is September 4, 1990.

After discussion, Vice-Mayor Moore moved to schedule a public hearing for August 28, 1990 to consider amendments to the Sign Ordinance. This motion was seconded by Councilman Ellison and carried unanimously.

V. CONSENT:

A. Sale of Disposal Parcel 180 in the East Riverside Urban Renewal Project.

SUMMARY: The Housing Authority has tentatively accepted a bid from Jennifer Scoville for Disposal Parcel 180 in the East Riverside Urban Renewal Project in the amount of $1,000. The Redeveloper is the owner of the adjoining property and plans to use the subject property in connection with that property. Ms. Scoville's adjoining property is the site of the Asheville Montessori School.

B. Resolution No. 90-113 - Resolution appointing members to the Asheville Tree/Greenway Commission.

SUMMARY: The terms of office of Alison Arnold, Robert Hope, Sandra Byrd, and Rebecca Norris as members of the Asheville Tree/Greenway Commission expired on August 1, 1990. This resolution will reappoint Alison Arnold, Sandra Byrd and Rebecca Norris and appoint Arthur Allen as members of the Asheville Tree/Greenway Commission, terms expiring August 1, 1993, or until their successors are duly appointed and qualified.

Resolution Book No. 18 - Page 193

C. Resolution No. 90-114 - Resolution appointing members to the Asheville-Buncombe Historic Resources Commission.

SUMMARY: The terms of Raymond Spells, Jr. and Shirley A. McCullough as members of the Asheville-Buncombe Historic Resources Commission expired on July 1, 1990; This resolution will reappoint Raymond Spells and appoint Carleton R. Collins as members of the Historic Resources Commission to serve three (3) year terms, terms expiring July 1, 1993 or until their successors are duly appointed and qualified.

Resolution Book No. 18 - Page 194

D. Resolution No. 90-115 - Resolution appointing members to the Recreation Board.

SUMMARY: The terms of office of Charles Bullman, Larry Kimel, and Sherman Williams as members of the Recreation Board expired on June 30, 1990. This resolution will reappoint Charles Bullman as a member and appoint Betty S. Donoho as a member, terms expiring June 30, 1993, or until their successors are duly appointed and qualified.

Resolution Book No. 18 - Page 195

Upon motion of Councilman Frank, seconded by Councilman Ellison, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

Council Meeting - September 4, 1990 - Cancelled

Mayor Michalove announced that the regular meeting scheduled for September 4, 1990 will be cancelled due to the Labor Day Holidays.

Councilman Frank - Report - Minority Business Committee

Councilman Frank reported that the recently established Minority Business Committee met on August 2, 1990. She said it is anticipated that the Minority Business Coordinator should be on board by early September. She said several members of the Committee requested permission to sit in on the interview process for the Coordinator.

Group development action by the Planning and Zoning Commission

Gerald Green, Senior Planner with the Planning Department, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. The action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. The following actions were taken by the Planning and Zoning Commission at their meeting on August 8, 1990:

1. **Wind in the Oaks, Tracts II and III**

Mr. Gerald Green, Senior Planner in the Planning Department, said Wind in the Oaks received initial approval for construction of 48 units at the project site, located off Windswept Drive, in 1984. The project ran into several problems and construction ceased after construction of 22 of the 48 approved units. Duvall Investment Group has purchased the project and is proposing the construction of 26 units, for a total of 48 units.

Development of the site is now regulated by the Hillside Development Ordinance due to the elevation and slope of the site. The developers were granted a variance by the Board of Adjustment to permit the construction of 26 units. Justification for the variance was that the new units would be located on areas already graded and very little additional grading would be required to construct the new units. Developers are proposing as a part of the project the construction of a loop road which would connect the two parking/drive areas. The loop road would be constructed partially on property owned by the City of Asheville and a right-of-way agreement will be required for the construction of this road. Construction of the connector road was endorsed by the Fire Department and the Public Works Department.

After reviewing the site plans for the project and hearing the comments of the staff and the developer's attorney, the Asheville Planning and Zoning Commission voted to approve the project with one contingency:

1. Approval by the City of Asheville of an access agreement to permit the construction of the connector road between the two parking/drive areas.

City Council accepted the recommendation of the Planning and Zoning Commission by taking no action.

2. **Lakeview Mobile Home Park Extension**

Gerald Green, Senior Planner in the Planning Department, said Mr. Lawrence Elbaum, owner, is proposing the addition of 11 mobile home spaces to the Lakeview Mobile Home Park. The area for which the expansion is proposed is less than one acre. Density of the proposed expansion is 12 homes per acre. In order to develop the mobile home park expansion as proposed, six variances from the standards for mobile home park expansion set forth in the City's Zoning Ordinance would be required. Variances from the standards for density, setbacks, and lot size would be required.

After reviewing the site plan and hearing the comments of staff and the project engineer, the Asheville Planning and Zoning Commission voted to recommend denial. The density and crowding of the development were the major concerns of the Commission.

Councilman Ellison moved to schedule a public hearing on the Lakeview Mobile Home Park Extension for August 28, 1990 in order to give the developer an opportunity to present his plans to the City Council. This motion died for the lack of a second.

City Council accepted the recommendation of the Planning and Zoning Commission by taking no action.

George Morosani - Council of Independent Business Owners - Request for Budget Information

George Morosani, Chairman of the Budget Committee for the Council of Independent Business Owners, said during the budget process they had requested information on contracts entered into by the City for outside consultants for the past three to five years. He said it was his understanding that this information would be furnished to them.

The City Manager said there is not a separate line item in the budget to show outside consultants. He said this information is in respective departmental budgets and it would take a tremendous amount of time to search for this information.

After discussion, Mayor Michalove said if the Budget Committee would like he and the City Manager would meet with them to discuss the process used in obtaining the services of outside consultants. He also said the Budget Committee members could also review the minutes of the Council meetings for the past three to five years to obtain this information.

VII. ADJOURNMENT

Mayor Michalove adjourned the meeting at 7:05 p.m.

H. M. Michalove
MAYOR

William F. Walcott
CITY CLERK

Tuesday - August 21, 1990 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Mayor Michalove.

Resolution No. 90-116 - Resolution in memory of Robert Stringfield Swain

Mayor Michalove read a resolution in memory of Robert Stringfield Swain, North Carolina Senator, who recently passed away.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 90-116 was unanimously adopted.

Resolution Book 18 - Page 197

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the minutes of the August 14, 1990 meeting as submitted.

I. PROCLAMATIONS:

A. Proclamation - "Goombay! Festival Days" - August 24 and August 25, 1990

Mayor Michalove proclaimed August 24 and August 25, 1990 as "Goombay! Festival Days". He presented the proclamation to Wanda Henry Coleman with the YMI Cultural Center.

II. PUBLIC HEARINGS:

A. **Public hearing relative to amending Chapters 26 and 30 of the Code of Ordinances of the City of Asheville (Hillside Development Requirements).**

Mayor Michalove opened the public hearing at 4:14 PM

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Gerald Green, Senior Planner from the Planning Department, gave a brief history of the current Hillside Development Ordinance. He said the ordinance was originally adopted to protect the steeper slopes in the City.

He said after reviewing site plans for projects subject to the Hillside Development Ordinance regulations, the Asheville Planning and Zoning Commission directed staff to develop amended wording which would require developers to distribute graded areas throughout the project site. Staff was also directed to make the regulations applicable to subdivision development. The proposed amendments call for graded areas to be distributed throughout the site rather than permitting one portion of the site to be completely graded. The proposed amendment extends the Hillside Development regulations to subdivision development, but not to construction on individual lots. After reviewing the proposed ordinance amendments, the Asheville Planning and Zoning Commission voted to approve them.

He said as requested a copy of the proposed amendments and the hearing notice was sent to CIBO, Board of Realtors, Chamber of Commerce and the Home Builders Association.

Mr. Green answered general questions from members of Council relative to the amendments.

After discussion, Councilman Ellison said he was sure the developers in the City have interest in this particular ordinance and moved that the public hearing be continued until October 30, 1990, without further advertisement, and that every effort be made to notify the developers that Council will be considering these amendments on that date. This motion was seconded by Councilman Price and carried unanimously.

B. Continuation of a public hearing relative to closing a portion of Beaver Drive.

Mayor Michalove said a petition signed by all property owners along the unopened portion of Beaver Drive has been received. There would be no adverse effects from closing the right of way. The Lakeview Park Commission has been notified of the proposed closing. A public hearing was held on this matter on August 7, 1990 and continued until August 21, 1990.

Jim Ewing, Director of Public Works, said the public hearing was continued in order to provide language in the resolution that would allow Mrs. McCracken utilization of her driveway which accesses Beaver Drive. He said after discussing the matter with Mrs. McCracken it appears that she is satisfied with closing a portion of Beaver Drive as recommended by the Public Works Department.

Mrs. McCracken requested that the entrance to her property remain open in order for her to continue to keep this area beautified.

Mr. Lamy, adjoining property owner, said he would have no objections to this area remaining open.

The City Attorney indicated leaving this small portion open might pose a problem for the City in the future. He suggested that Mrs. McCraken and Mr. Lamy come to an agreement on this area and that Mr. Lamy quitclaim deed this area to Mrs. McCracken.

After discussion, Mayor Michalove closed the public hearing at 4:35 PM

Mayor Michalove said action on the resolution would be postponed until September 11, 1990 giving the property owners an opportunity to prepare the quitclaim deed to Mrs. McCracken.

III. OLD BUSINESS:

A. Report - Sign Ordinance Revision Committee

Vice-Mayor Moore, Chairman of the Sign Ordinance Revision Committee, highlighted the proposed Sign Ordinance amendments recommended by the committee. He said most of the amendments are of a procedural or technical nature.

A copy of the proposed sign ordinance amendments is on file in the Office of the City Clerk.

He said a public hearing relative to readopting the Sign Ordinance with amendments is scheduled for August 28, 1990. He said the committee is recommending the readoption of the ordinance with the proposed amendments.

A lengthy discussion was held relative to signs deemed historically, culturally or artistically significant being grandfathered. It was determined that strict criteria should be provided for these signs and that a review process developed.

Mayor Michalove requested that the Sign Ordinance Revision Committee come up with a recommendation for dealing with these types of signs.

B. Hendersonville Road Report

Mayor Michalove said Council has been considering the dead-ending of Academy and Center Streets in connection with the Hendersonville Road Widening Project. A public hearing was held on August 14, 1990 and action on the resolution has been postponed until August 28, 1990. Members of Council had several questions relative to the resolutions.

Charles Penny, Assistant City Manager, reported that he had met with Gene Edmonds with the North Carolina Department of Transportation regarding Council's request for a stop light at West Chapel Road. He said Mr. Edmonds indicated that the state at this time can not commit to installing a light at West Chapel Road; however, he feels that when the project is complete traffic counts will warrant a stop light at West Chapel Road.

Mr. Penny presented a map for the proposed dead-ending of Center Street showing a "T" turn around at the end of Center Street.

He said a request was received from the owners of the Christmas Shop for a driveway entrance into their business off Hendersonville Road at the dead-ending of Center Street. He said the City would not recommend this entrance due to local residents using it to access their property.

Mayor Michalove noted that the state could look at several alternatives. He suggested that the state consider dead-ending Center Street at the bottom of the hill with the state purchasing one vacant lot to use as a turn around for local traffic.

IV. NEW BUSINESS:

A. Resolution No. 90-116 - Resolution appointing member to the Planning and Zoning Commission.

Mayor Michalove said this resolution will appoint Barbara Melton as a member of the Planning and Zoning Commission to serve a two (2) year term, term expiring August 14, 1992, or until her successor is duly appointed and qualified.

Mayor Michalove said members of Council were previously presented copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 90-116 was unanimously adopted.

Resolution Book No. 18 - Page 196

B. Report on Insurance Proposals.

The City Manager said the city staff has been working for sometime on the annual renewal of the city's insurance policies. He said most all coverages expire September 1.

Dick Ackerman, Risk and Asset Managers, Consultant for Risk Management, said the City initiated a competitive process in March of this year with several objectives to be met. He said these objectives were: 1) To secure the best coverage from the best qualified broker available to the City of Asheville; and 2) To assure that the price for the premiums to be paid is competitive with prevailing market rates. He said these objectives have been achieved through the competitive process.

Mr. Ackerman highlighted the attached report regarding recommendations for property, casualty, and liability coverage renewals on September 1, 1990.

A discussion was held relative to "excess" insurance coverage and the amount the City needs to carry. It was decided that this "excess" amount would be determined at a later date.

Mr. Ackerman said he was concerned that the City does not have insurance on the North Fork or Bee Tree Dam. He said insurance on dams is difficult to obtain. He said the Office of Risk Management is looking into this matter.

Upon inquiry of Mayor Michalove, the City manager said the recommended $664,254 is within budget. Mr. Ackerman said prior liability from previous companies is also covered in the recommendations.

Vice-Mayor Moore moved to accept the recommendations, outlined by Mr. Ackerman, for insurance coverages for the City of Asheville. This motion was seconded by Councilman Bratton and carried unanimously.

Mayor Michalove requested a one page summary of the City's accomplishments regarding insurance policies within the past three (3) years.

V. CONSENT:

VI. OTHER BUSINESS:

Claims - Ann Peterson (Sanitation) - Taurus Cave (Water) - Motorola (Downtown Development)

The City Manager presented claims received from Ann Peterson, Taurus Cave, and Motorola.

Mayor Michalove referred the claims to the City Attorney for investigation and recommendation.

Disability Review Board Appeals - Findings of Fact and Conclusions of Law

A. Findings of Fact and Conclusions of Law - Jackie Vaughn Babb

The City Attorney presented the Findings of Fact and Conclusions of Law regarding the Disability Review Board Appeal of Jackie Vaughn Babb.

Since Mayor Michalove was involved in the Board's ruling regarding Jackie Vaughn Babb, Councilman Ellison moved to excuse Mayor Michalove from participation and vote regarding the Findings of Fact and Conclusions of Law regarding Jackie Vaughn Babb. This motion was seconded by Councilman Frank and carried unanimously.

Councilman Ellison moved to accept the City Attorney's Findings of Fact and Conclusions of Law regarding the Disability Review Board Appeal of Jackie Vaughn Babb and based upon the findings of fact and conclusions of law, the determination of the Disability Review Board be affirmed. This motion was seconded by Councilman Frank and carried unanimously.

A copy of the Findings of Fact and Conclusions of Law is attached to these minutes.

B. Findings of Fact and Conclusions of Law - James Randall

The City Attorney presented the Findings of Fact and Conclusions of Law regarding the Disability Review Board Appeal of James Randall.

Since Mayor Michalove was involved in the Board's ruling regarding James Randall, Councilman Ellison moved to excuse Mayor Michalove from participation and vote regarding the Findings of Fact and Conclusions of Law regarding James Randall. This motion was seconded by Councilman Frank and carried unanimously.

Councilman Ellison moved to accept the City Attorney's Findings of Fact and Conclusions of Law regarding the Disability Review Board Appeal of James Randall and based upon the findings of fact and conclusions of law, the decision of the Disability Review Board of January 11, 1990, denying Mr. Randall's request for reconsideration, be affirmed. This motion was seconded by Councilman Price and carried unanimously.

A copy of the Findings of Fact and Conclusions of Law is attached to these minutes.

C. **Findings of Fact and Conclusions of Law - James F. S. Whitworth**

The City Attorney presented the Findings of Fact and Conclusions of Law regarding the Disability Review Board Appeal of James F. S. Whitworth.

Since Mayor Michalove was involved in the Board's ruling regarding James F. S. Whitworth, Councilman Ellison moved to excuse Mayor Michalove from participation and vote regarding the Findings of Fact and Conclusions of Law regarding James F. S. Whitworth. This motion was seconded by Councilman Frank and carried unanimously.

Councilman Ellison moved to accept the City Attorney's Findings of Fact and Conclusions of Law regarding the Disability Review Board Appeal of James F. S. Whitworth and that based upon the findings of fact and conclusion of law, that the City Council reverses its earlier decision and reverse rather than affirm the decision of the Disability Review Board, denying Mr. Whitworth's application for supplemental benefits. This motion was seconded by Councilman Price and carried unanimously.

A copy of the Findings of Fact and Conclusions of Law is attached to these minutes.

D. **Findings of Fact and Conclusions of Law - Charles Thomas Parker**

The City Attorney presented the Findings of Fact and Conclusions of Law regarding the Disability Review Board Appeal of Charles Thomas Parker.

Since Vice-Mayor Moore was involved in the Board's ruling regarding Charles Thomas Parker, Councilman Ellison moved to excuse Vice-Mayor Moore from participation and vote regarding the Findings of Fact and Conclusions of Law regarding Charles Thomas Parker. This motion was seconded by Councilman Estes and carried unanimously.

Councilman Ellison moved to accept the City Attorney's Findings of Fact and Conclusions of Law regarding the Disability Review Board Appeal of Charles Thomas Parker and that based upon the findings of fact and conclusions of law, the decision of the Disability Review Board, denying Mr. Parker's application for supplemental benefits, be reversed. This motion was seconded by Councilman Frank and carried unanimously.

A copy of the Findings of Fact and Conclusions of Law is attached to these minutes.

E. Findings of Fact and Conclusions of Law - Dillard Searsey

The City Attorney presented the Findings of Fact and Conclusions of Law regarding the Disability Review Board Appeal of Dillard Searsey.

Since Vice-Mayor Moore was involved in the Board's ruling regarding Dillard Searsey, Councilman Ellison moved to excuse Vice-Mayor Moore from participation and vote regarding the Findings of Fact and Conclusions of Law regarding Dillard Searsey. This motion was seconded by Councilman Estes and carried unanimously.

Councilman Ellison moved to accept the City Attorney's Findings of Fact and Conclusions of Law regarding the Disability Review Board Appeal of Dillard Searsey and that based upon the findings of fact and conclusions of law, the decision of the Disability Review Board, denying Mr. Searsey's application for supplemental benefits, be reversed. This motion was seconded by Councilman Frank and carried unanimously.

A copy of the Findings of Fact and Conclusions of Law is attached to these minutes.

Ralph Bishop - Lottery Sales

Ralph Bishop again spoke to members of Council relative to lottery sales in the City of Asheville.

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 6:20 PM

H. M. Michalove
MAYOR

William F. Hollett
CITY CLERK

Reported to Council 8-21-9

JACKIE VAUGHN BABB
FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Mr. Babb was hired by the Asheville Fire Department as of July 3, 1965.

2. Mr. Babb's application for disability retirement was approved by the Medical Board of the Retirement Systems Division of the North Carolina Department of State Treasurer, effective January 1, 1990.

3. Mr. Babb received an injury to his right elbow while handling a fire hose at a fire on November 30, 1988. Mr. Babb was first seen at the City of Asheville Employee Health Services (Infirmary) on December 1, 1988, where he was referred to St. Joseph's Urgent Care. The diagnosis of Dr. Harry Steiner was extensor tendonitis Right elbow. Mr. Babb was seen again at St. Joseph's Urgent Care Center on December 6, 1988 and December 20, 1988 for further treatment. On December 20, 1988, he was referred to Dr. Burkhardt for an orthopedic evaluation.

4. Dr. Burkhardt's examination of Mr. Babb on December 28, 1988, indicated a diagnosis of acute strained right upper shoulder girdle with tendonitis and possible neuropraxia to the right arm. Mr. Babb was treated with an injection of Hydeltrasol, Hydeltra TBA and Xylocaine and was to be seen by Dr. Durham to rule out nerve involvement.

5. On January 16, 1989, Dr. Durham reported to Dr. Burkhardt that his impression was that the patient probably had tendonitis of the right elbow. He recommended Mr. Babb be evaluated on the Cybex at St. Joseph's Hospital and stated that he would do EMG and nerve conduction studies to see if he could confirm any evidence of denervation.

6. Dr. Durham was not able to find anything specific on Mr. Babb's electrophysiological studies. Dr. Durham stated that he did not think Mr. Babb had sustained a significant neurological injury and would return him to Dr. Burkhardt's care.

7. On February 17, 1989, Dr. Burkhardt allowed Mr. Babb to return to work as of February 24, 1989.

8. Based upon an examination on March 23, 1989, Dr. Burkhardt recommended continued conservative treatment. On March 24, 1989, Dr. Burkhardt made a diagnosis of traumatic tendonitis, right forearm, related to recent injury.

9. Mr. Babb was seen by Dr. Bruce I. Minkin on April 11, 1989. It was Dr. Minkin's impression that Mr. Babb suffered from lateral epicondylitis and possible radial tunnel syndrome. Dr. Minkin stated that it would be fine for Mr. Babb to do clerical work and other activities which would not have him doing any kind of activity with his right arm. If that kind of limited duty was available, Mr. Babb could return to work. If not, Dr. Minkin recommended that Mr. Babb be off from work at least 3 weeks to see how he did with conservative care. Dr. Minkin saw Mr. Babb again on April 17, 1989, where Mr. Babb complained that he was still being required to use his right arm at work. He was, therefore, placed out of work for the next 2 weeks completely. On May 2, 1989, Mr. Babb was again seen by Dr. Minkin who gave him a period of 3 weeks of total rest of his arm. On May 30, 1989, Dr. Minkin again examined Mr. Babb, stating that his symptoms had not lessened with 3 weeks of conservative care. Dr. Minkin did not think Mr. Babb would get better with conservative care and discussed surgical procedures with Mr. Babb. Dr. Minkin told Mr. Babb that he could not guarantee pain relief, however, with surgery.

10. Mr. Babb was next seen by Dr. Ronald Neimkin on June 29, 1989, whose impression was probable lateral epicondylitis of the right elbow and possible radial nerve entrapment. As Mr. Babb did not wish to have surgery at that time, Dr. Neimkin continued him on non-operative care. Mr. Babb had been working light-duty assignments, but returned to Dr. Neimkin on July 19, 1989, complaining of two-handed painting of fire hydrants as causing him pain. At that time, Dr. Neimkin reported that Mr. Babb would be out of work for three weeks. On August 9, 1989, Dr. Neimkin started Mr. Babb on a progressive resistent exercise program 3 times weekly at Appalachian Hand Therapy. On September 8, 1989, Dr. Neimkin recommended that Mr. Babb undergo psychological testing. On October 4, 1989, Dr. Neimkin reported that Mr. Babb would be able to do light-duty work, filling out forms and other clerical work, but felt he would be at risk of injuring his right upper extremity if he went back out in the field. He again recommended psychological testing and that Mr. Babb continue therapy on a daily basis. At that time, Dr. Neimkin stated that Mr. Babb was making slight progress and there was a small chance he might be able to fight fires again. Dr. Neimkin further stated, however, that he would seriously doubt that Mr. Babb would be able to fight fires again.

11. On October 10, 1989, Dr. Joseph Gallenberger, licensed clinical psychologist, found no evidence of major psychological disturbance for Mr. Babb. He found no evidence of factors conscious or unconscious that would significantly increase perceived pain or decreased rate of recovery.

12. On November 8, 1989, Dr. Neimkin reported that the therapist rated Mr. Babb's upper extremity at 50 percent of the strength of his opposite side. Due to the lack of strength in the right upper extremity, he did not believe that Mr. Babb would ever be able to return to work as a firefighter; Mr. Babb, however, was to continue at his light-duty work. Dr. Neimkin requested a second psychological evaluation from Dr. Tony Sciara.

13. On November 27, 1989, Dr. Anthony B. Sciara, psychologist, reported a history for Mr. Babb that was essentially non-revealing of any pathology. Dr. Sciara reported that, essentially, whatever the true nature of Mr. Babb's injury and resultant medical status, Mr. Babb was convinced that he was disabled. If there were any suspicion of malingering it would not be because he is consciously malingering. Dr. Sciara stated that Mr. Babb truly believed that he cannot perform the duties of his job and therefore he cannot. Even if Mr. Babb were malingering, consciously or unconsciously, Dr. Sciara said it was doubtful that psychological intervention would be successful in resolving that issue. He recommended that Mr. Babb be treated conservatively.

14. On November 29, 1989, Dr. Neimkin reported that Mr. Babb was suffering from a chronic lateral epicondylitis. He noted that Dr. Sciara's letter reported no evidence of any conscious malingering. He further stated that he believed Mr. Babb was disabled from his job as a firefighter. He determined a 50 percent impairment of the right upper extremity and, with that weakness, did not believe that it was feasible for Mr. Babb to go back to active firefighting. Dr. Neimkin completed form 7A for the Retirement System Division of the Department of State Treasurer on November 29, 1989, stating that he considered Mr. Babb to be totally and permanently disabled to perform his usual occupation. On that same date, he discharged Mr. Babb from his care.

15. On February 13, 1990, Dr. Spencer examined Mr. Babb and found that, in the absence of atrophy of the musculature, he was at a total loss to correlate with the grip strength loss. It was Dr. Spencer's recommendation that Mr. Babb undergo a Bosworth procedure, but explained that he could not give guaranteed benefits, as Dr. Minkin had not. Dr. Spencer stated he would question Mr. Babb's motivation for rehabilitation and would, therefore, not give any guarantees of improvement at this point in time, but could not draw a direct correlation between the injury, the stated loss of strength and the demonstrated lack of atrophy at this point in time.

16. The Disability Review Board denied the request of Mr. Babb for supplemental benefit payments and Mr. Babb appealed that decision to the City Council.

17. Although Mr. Babb complains of a continuous sharp pain extending from his right elbow to his hand, resulting in disability, he takes no medication whatsoever for his condition and has not sought the surgical relief suggested by Dr. Spencer.

Based upon the foregoing findings of fact, the City Council concludes as a matter of law, that any disability of Mr. Babb is not the result of the on-the-job injury of November 30, 1988, that he did not become disabled while acting in the line of his firefighter duties or as a result of the performance of his duties as a member of the Asheville Fire Department, and he is therefore not entitled to supplemental benefits.

Based upon the foregoing findings of fact and conclusions of law, the determination of the Disability Review Board is affirmed.

JAMES RANDALL
FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Mr. Randall was hired by the Asheville Fire Department on August 4, 1973.

2. Mr. Randall's application for disability retirement was approved by the Medical Board of the Retirement Systems Division of the North Carolina Department of State Treasurer, effective June 1, 1985.

3. Mr. Randall made application for supplemental benefits, alleging that his disability was a result of an injury in line of duty.

4. That the Disability Review Board denied Mr. Randall's claim for in line of duty disability benefits on March 23, 1989.

5. Mr. Randall did not appeal that decision to the City Council.

6. On January 11, 1990, Mr. Randall appeared before the Disability Review Board and requested that his claim be reconsidered.

7. The Disability Review Board denied Mr. Randall's request for reconsideration on January 11, 1990, and Mr. Randall appealed that decision to the City Council.

8. Upon hearing before the City Council, Mr. Randall made no offer of evidence that was not available at the time of the hearing before the Disability Review Board on March 23, 1989.

9. Mr. Randall has not shown the decision of the Disability Review Board of March 23, 1989, to have been based upon fraud, surprise, mistake, inadvertence or other reason justifying reconsideration.

Based upon the foregoing findings of fact, the City Council concludes as a matter of law that Mr. Randall has not shown justification or good cause for reconsideration.

Based upon the foregoing findings of fact and conclusions of law, the decision of the Disability Review Board of January 11, 1990, denying Mr. Randall's request for reconsideration is affirmed.

Reported to Council 8-21-90

JAMES F. S. WHITWORTH
FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Whitworth was hired by the Asheville Fire Department as of January 8, 1966.

2. Mr. Whitworth's application for disability retirement was approved by the Medical Board of the Retirement and Health Benefits Division of the North Carolina Department of State Treasurer, effective August 1, 1989.

3. Mr. Whitworth is entitled to supplemental benefits to the extent that the benefits that he receives from LGERS are less than he would have received under the Asheville Fireman's Pension and Disability Fund.

Based upon the foregoing findings of fact, the City Council concludes as a matter of law that the decision of the Disability Review Board denying Mr. Whitworth's claim for supplemental benefits should be reversed.

Based upon the foregoing findings of fact and conclusions of law, the decision of the Disability Review Board, denying Mr. Whitworth's application for supplemental benefits, is reversed.

Reported to Council 8-21-90

CHARLES THOMAS PARKER
FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Mr. Parker was hired by the Asheville Fire Department, effective January 30, 1971.

2. Mr. Parker's application for disability retirement was approved by the Medical Board of the Retirement Systems Division of the North Carolina Department of State Treasurer, effective December 1, 1989.

3. Mr. Parker is entitled to supplemental benefits to the extent that the benefits that he receives from LGERS are less than he would have received under the Asheville Fireman's Pension and Disability Fund.

Based upon the foregoing findings of fact, the City Council concludes as a matter of law that the decision of the Disability Review Board denying Mr. Parker's claim for supplemental benefits should be reversed.

Based upon the foregoing findings of fact and conclusions of law, the decision of the Disability Review Board, denying Mr. Parker's application for supplemental benefits, is reversed.

Reported to Council 8-21-90

DILLARD SEARSEY
FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Mr. Searsey was hired by the Asheville Fire Department, effective February 16, 1974.

2. Mr. Searsey's application for disability retirement was approved by the Medical Board of the Retirement System Division of the North Carolina Department of State Treasurer effective December 1, 1989.

3. Mr. Searsey is entitled to supplemental benefits to the extent that the benefits that he receives from LGERS are less than he would have received under the Asheville Fireman's Pension and Disability Fund.

Based upon the foregoing findings of fact, the City Council concludes as a matter of law that the decision of the Disability Review Board denying Mr. Searsey's claim for supplemental benefits should be reversed.

Based upon the foregoing findings of fact and conclusions of law, the decision of the Disability Review Board, denying Mr. Searsey's application for supplemental benefits, is reversed.

MEMORANDUM

TO: Doug Bean, City Manager

FROM: John P. Nicol, Director of Risk Management Services

DATE: August 17, 1990

SUBJECT: Recommendations for Continuation of Coverages for September 1 Renewals

Doug, attached, please find the recommendation prepared by me and our outside consultant for Risk Management for this year's renewals.

As you know, we initiated this competitive process in March of this year. It was hoped in taking this approach to our annual renewal, that several objectives could be met. Among those were:

1. To secure the best coverage from the best qualified broker available to the City of Asheville.

2. To assure that the price for the premiums to be paid is competitive with prevailing market rates.

I am satisfied that these objectives have been achieved at this time through the implementation of the process that we decided upon back in the Spring.

The recommendation contained in the attached report is the end result of not only the competitive bid process, but also reflects final last minute negotiations between the City, its outside consultant, and the successful agents. I am confident that the coverages recommended will adequately protect the City's interest, and further represent an opportunity to let the City establish its program on a multi-year basis which is something that we have not been able to do over the past several years.

Please let me know if you have any questions or require any additional information about this recommendation or the process implemented to reach this point.

JPN/slm

Attachment

cc: Richard Ackerman, Risk and Asset Managers

Item

REPORT TO THE CITY MANAGER
REGARDING RECOMMENDATION FOR
PROPERTY, CASUALTY, AND LIABILITY INSURANCE RENEWALS
IN SEPTEMBER, 1990

BACKGROUND:

Two years ago the City secured an outside consultant for Risk Management to investigate the City's total insurance and risk management program. As a result of this effort, a recommendation was made to stop placing City coverages through the old Asheville and Buncombe Insurance Advisory Committee. Further, a recommendation was received to hire a full time Risk Manager on staff for the City of Asheville.

Effective 9/1/89, the City began placing its coverages independently of the Insurance Advisory Committee. The Committee has since that time by joint action of the Asheville City Council and the Buncombe County Commissioners been dissolved. Further, on 12/21/89 the City Manager appointed a full time Risk Manager for the City of Asheville.

It was determined to be in the City's best interest to retain the placing services of the outside consultant through the 1990 renewal period. Together, the Office of Risk Management and the outside consultant have prepared this report and its recommendations for renewals for this year.

PROCESS:

Beginning in March, 1990, the Office of Risk Management in conjunction with the outside consultant began preparing a package of information which included among other items, hard copy loss data for at least three years, fiscal management reports for the City of Asheville, and updated listings of properties and operations. This information was then mailed to approximately eighteen agents and brokers throughout the two Carolinas. This listing included virtually all of the local agents within the Asheville Buncombe County area.

Based upon the twelve responses that we received back, a grading and evaluation process was conducted and the field was narrowed to nine potential agents and brokers who it was determined from pre-established criteria, had the experience and depth of staff available to meet the City's needs.

Further, based upon the responses received and as they were evaluated, market assignments were made to the eight remaining agents and brokers for securing quotations on behalf of the City of Asheville. It is noteworthy that given the requested market assignments, which were not reviewed until after the brokerage selection had been made, every available national and worldwide market capable of writing municipal coverages was accessed.

On Friday, August 1, 1990, "bid" responses were received by the Office of Risk Management.

[illegible]:

The outside consultant began a week-long analysis of the proposals received on August 1. In depth negotiations and consultations with the agents and carriers were conducted during that week.

It should be noted that an "apples to apples" comparison was made very difficult by virtue of all of the respondents failing to respond in accordance to the specifications provided originally by the City of Asheville. In most instances, the carriers provided a quote which they believed to be in the City's best interest, and not necessarily for what we had asked. Although this would be typical of most insurance companies, it did make the process rather difficult to evaluate.

RECOMMENDATION:

Based upon the information in hand and as a result of the process and evaluation described above, the Office of Risk Management in conjunction with our outside consultant is making the following recommendations to the City Manager relative to placement of the City's coverages as of September ., 1991.

It is our belief that the coverages herein recommended represent the best coverage, at the best price, based upon ability to deliver service for the City's needs.

	PRESENT		[illegible]	
PROPERTY:	Webb/ISA	$114,433	White/IRM	$ 70,356
BOILER & MACHINERY:	ISA	$ 13,889	ISA	$ 10,417
PRIMARY LIABILITY:	Webb/Hartford	$415,811	Webb/Hartford	$392,881
PUBLIC OFFICIALS LIABILITY:				
PRIMARY	ISA	$ 21,825	ISA	$ 21,825
EXCESS	ISA	$ 17,360	ISA	$ 17,36[illegible]
LAW ENFORCEMENT LIABILITY:				
PRIMARY	ISA	$ 94,741	ISA	$ [illegible]5,293
EXCESS	ISA	$ 69,150	ISA	$ 69,125
SUBTOTAL:		$747,209		[illegible]
EXCESS:	No Coverage		C&B	[illegible]
TOTAL:		$747,209		$795,75[illegible]

Fire Department, Law Enforcement Liability and Public Officials Liability Excess, and Miscellaneous bonds are not included since no viable competitive proposals were received. These coverages will be continued with the present agents and insurors:

FIRE DEPARTMENT: Webb/VFIS

LEL/POL EXCESS: Insurance Service of Asheville/Markel

KEY: Webb... R. Stanford Webb Agency, Inc.
ISA.... Insurance Service of Asheville
C&B.... Corroon & Black

Tuesday - August 28, 1990 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Councilman Price.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the minutes of the August 21, 1990 meeting as submitted.

I. PROCLAMATIONS:

A. **Resolution No. 90-118 - Resolution in memory of John A. Dusenbury, Sr.**

Mayor Michalove read a resolution in memory of John A. Dusenbury, Sr., a prominent civic leader who recently passed away.

Upon motion of Councilman Frank, seconded by Vice-Mayor Moore, Resolution No. 90-118 was unanimously approved.

Resolution Book No. 18 - Page 198

B. **Resolution No. 90-119 - Resolution in memory of Harold F. Brownlee**

Mayor Michalove read a resolution in memory of Harold F. Brownlee, former Councilman who recently passed away.

Upon motion of Councilman Bratton, seconded by Councilman Price, Resolution No. 90-119 was unanimously approved.

Resolution Book No. 18 - Page 199

III. OLD BUSINESS:

A. Resolution relative to the closing of Academy and Center Street at their intersection with Hendersonville Road.

Mayor Michalove said the N. C. Department of Transportation's designs for improvements to Hendersonville Road would result in excessive grades and additional right-of-way to connect Academy Street and Center Street to the new roadway. Closing these streets, where they intersect with Hendersonville Road, will eliminate the excessive grades and the need for additional right-of-way acquisition, but will still provide access to Hendersonville Road via Yorkshire and Fairview Streets. A public hearing was held relative to this matter on July 17, 1990.

Charles Penny, Assistant City Manager, said as requested by the Council, he talked with Gene Edmonds from the North Carolina Department of Transportation relative to the installation of a traffic signal at Old West Chapel Road and Hendersonville Road. He said the state does not feel comfortable about the placement of a light at this time. He said they have agreed to conduct another traffic count at Old West Chapel Road, Yorkshire Street and Fairview Road to determine if the counts warrant a traffic signal. He said they do feel that by the completion of the project these areas will warrant a traffic signal.

Mr. Penny said the state is also investigating the feasibility of placing the cul-de-sac at the bottom on the hill on Center Street behind the old Ingle's Building. He said the state is also going to provide a driveway entrance for the Christmas Shop on Hendersonville Road.

Gene Edmonds with the North Carolina Department of Transportation said it would take several weeks for all this information to be pulled together.

After discussion, Mayor Michalove said action on the resolution would be postponed until September 25, 1990.

II. PUBLIC HEARINGS:

A. Public hearing relative to amendments to Article 9 of Chapter 30 of the Code of Ordinances of the City of Asheville (Sign Regulations).

Ordinance No. 1863 - An Ordinance Repealing Ordinance No. 1801 (Sign Regulations) and adopting a new Sign Ordinance reestablishing sign regulations for the City of Asheville.

Mayor Michalove said the Sign Revision Committee has reviewed comments from a public forum held on the Sign Ordinance (adopted December 4, 1989) and has proposed that the ordinance be repealed and readopted with some revision.

Mayor Michalove opened the public hearing at 4:18 P.M.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

The City Attorney advised that Council is limited in their scope of action to specifically dealing with the repeal of the current sign ordinance and readoption of a new sign ordinance with the eight (8) amendments that were provided for in the notice to the public.

Mayor Michalove said the City Council has determined it to be in the best interest to extend the time period within which a person must bring a cause of action as to the validity of a zoning ordinance under N.C. Gen. Stat. sec. 160A-364.1 by repealing Ordinance No. 1801 and adopting on this same date an ordinance reestablishing sign regulations. He said this action would give individuals nine (9) months from today's date to bring a cause of action. He said the reestablishment of a new Sign Ordinance would also change the amortization schedule for nonconforming signs to five (5) to seven (7) years from today's date rather than the December 4, 1989 date.

Vice-Mayor Moore noted that at a special called meeting of the Planning and Zoning Commission held on August 27, 1990, the Commission unanimously recommended the repeal of the current Sign Ordinance and the reestablishing of a new Sign Ordinance which would include the eight (8) proposed amendments.

Julia Cogburn, Director of Planning, reviewed the proposed amendments. A copy of the proposed Sign Ordinance Amendments are attached to these minutes.

Harold Holcombe, Vice-President of Council of Independent Business Owners, requested that all nonconforming signs be "grandfathered".

Jerry Hobbs also requested that a "grandfather" clause be added in the ordinance to provide for nonconforming signs.

Miles Thompson said the size of the building and the distance the business is from the road should be considered when provisions for temporary signs are considered.

Mayor Michalove said the city staff would look into Mr. Thompson's request.

Mayor Michalove closed the public hearing at 4:47 P.M.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Vice-Mayor Moore moved for the adoption of Ordinance No. 1863. This motion was seconded by Councilman Frank.

A discussion was held relative to provisions for historic and landmark signs. It was noted that the Sign Ordinance could be amended at any time.

On a roll call vote of 7-0, Ordinance No. 1863 passed on first reading.

Vice-Mayor Moore moved to suspend the rules and proceed to the second reading of Ordinance No. 1863. This motion was seconded by Councilman Frank and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1863 passed on second reading.

Councilman Frank moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1863. This motion was seconded by Vice-Mayor Moore and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1863 passed on third and final reading.

Ordinance Book No. 12 - Page 184 - 228

III. OLD BUSINESS (CONT'D)

B. **Ordinance No. 1840 - Third reading of an ordinance regulating the operation of horse-drawn carriages in the City.**

Mayor Michalove said the Code, as it is currently written, does not provide for the operation of horse-drawn vehicles in the City. He said the Council desires to have a horse-drawn carriage ordinance and is now considering the types of restrictions that should be placed on a carriage business. He said this ordinance previously passed on first and second readings and since that time numerous meetings have been held to determine the restrictions.

Patsy Brison, Assistant City Attorney, reviewed the following reports, as requested by Council, and recommendations for inclusion in the horse-drawn carriage ordinance:

MEMORANDUM TO: Doug Bean, City Manager

FROM: Patsy Brison, Assistant City Attorney

DATE: August 15, 1990

SUBJECT: Horse-Drawn Carriage Business Ordinance

Certain issues were raised by the public and by the City Council members at the City Council meeting on May 1 with regard to the above-referenced ordinance. Those issues and how they have been addressed are set forth as follows:

1. Address concerns raised by Jack Westall in his letter of April 30, 1990. Those concerns were addressed as follows:

   A. What is the intent of the inclusion of the last sentence in Section 10 (A) with regard to hold harmless language being included on the permit given to the businesses?

      The City needs some method of receiving hold harmless statements from the permit holders.

   B. Why is a chauffeur's license required in Section 11 (C)?

      This was included as there was some sentiment to use language from the ordinance of Covington, Kentucky. Covington, Kentucky, required it because there is a State law requiring that type of license for people who drive such things as buses, cabs, limos, etc.. It is not required, however, for transporting other persons in non-motorized vehicles such as horse-drawn carriages. Covington, Kentucky, decided to require it anyway.

      North Carolina no longer has a chauffeur's license category, but now has three different categories of

driver's licenses. Those categories are based upon the gross vehicle weight rating of the vehicles and do not relate to whether or not someone is transporting passengers for hire. A Class "C" license is the one required for normal passenger vehicles, excluding motorcycles, and that is the one we would recommend requiring for drivers of horse-drawn carriages. There is also a new category in North Carolina - commercial driver license - but it would not be required for horse-drawn vehicles. The last sentence of Section 11 (C) would now be changed to read as follows: "An applicant must show that he has a current North Carolina Class "C" license and that the license is not under suspension or revocation."

C. A concern was raised about the 30 hours of training required before a driver's permit could be issued. A suggested amendment to Section 11 (D) would read as follows:

Each applicant for a driver's permit shall file with the Carriage Inspector a sworn affidavit that he/she has successfully completed an apprenticeship of 40 hours with horse-drawn carriages, which includes, but is not limited to:

(1) The proper method of fitting a harness to a horse and hitching and unhitching a properly harnessed horse.

(2) Has ridden with a driver permitted hereunder during the first 24 hours of the apprenticeship to observe the proper handling and driving of a horse-drawn carriage and has been trained in emergency situations for unexpected animal behavior.

(3) Has driven horse-drawn carriage under the supervision of a driver

permitted hereunder for the last 16 hours of the apprenticeship.

(4) Is familiar with the traffic regulations and designated horse-drawn carriage routes.

In lieu of the apprenticeship requirements, an applicant may file with the Carriage Inspector a sworn affidavit that he/she has had previous experience driving a horse-drawn carriage, exceeding 40 hours therein, including a detailed description, satisfactory to the Carriage Inspector, of that experience.

D. A concern was raised about the visibility of turn signals for a distance of 1,000 feet and a need for a fire extinguisher on board as set forth in Section 13 - No changes are suggested.

E. A concern was raised about the requirement for polyurethane shoes in Section 18 (C). Section 18 (C) could be amended to read as follows:

Each animal shall have its hooves properly trimmed and shod for street surfaces, with the horseshoes designed to keep the animal from slipping on the pavement.

OR

** Each animal shall have all hooves properly trimmed and shod for street surfaces, with the horseshoes to be a type of polyurethane shoes designed to keep the animal from slipping on the pavement; provided, however, the Carriage Inspector may determine, however, that another horseshoe proposed by the permit holder to applicant is adequate to keep the animal from slipping on the pavement.

NOTE: Council chose the second recommendation.**

F. Concerns were raised about the requirement for taking the temperature of horses set forth in Section 18 (I). An amendment to Section 18 (I) could read as follows:

> No animal shall become overheated in a manner which endangers its health and safety. The temperature of each animal pulling a horse-drawn carriage shall be taken immediately prior to being used to pull horse-drawn carriages for that day and shall be taken no less often than two (2) hours during the time period it is used to pull horse-drawn carriages for that day. A log of these temperatures and the time the temperatures are taken shall be maintained by the permit holder and shall be provided to the Carriage Inspector on a monthly basis.

G. Concerns were raised about the temperatures set forth in Section 18 (J) with regard to when the carriages could be operated. An amendment to Section 18 (J) could read as follows:

> No animal shall pull horse-drawn carriages in temperatures below 25 degrees F under calm conditions or its equivalent when adding in a wind chill factor, or when the apparent temperature, combining the air temperature with the relative humidity, is above 90 degrees F. All determinations of the temperatures as set forth in this Section shall be based upon information from the National Climatic Center for weather in the Asheville, North Carolina area.

2. Determine why the Covington, Kentucky, ordinance limits horses to working 5 days out of 7 days instead of 6 days out of 7 days.

> There was no particular reason for that, according to officials in Covington, Kentucky. In order to allow horses to be worked 6 days out of 7 days, Section

18 (K) would be amended to read as follows:

> Animals used to pull horse-drawn carriages shall be given a 10 minute rest period at the end of 2 consecutive labor hours and potable water shall be made available during the rest period. Labor hours are defined as hours the animal is in harness for the horse-drawn carriage business. No animal shall be kept in harness for the horse-drawn carriage business for periods in excess of 8 successive labor hours without a minimum of 3 successive hours out of harness. No animal shall be in harness for the horse-drawn carriage business for more than 6 days in a 7 day period.

3. Include a representative or representatives of animal rights group on the Carriage Permit Advisory Board. Expand the membership of the Board. Section 29 would be amended to read as follows:

> The City Council shall appoint a Carriage Permit Advisory Board composed of five (5) members, one of whom shall be a licensed veterinarian who shall have experience in the care and treatment of horses and one of whom shall be a representative of a local animal rights group, such as the SPCA. The Board shall be responsible for assisting the Carriage Inspector in making sure that the horse-drawn carriage businesses and drivers permitted hereunder comply with the requirements of this Chapter and may make recommendations to the City Council with regard to amendments to this Chapter to insure the safe and humane operation of the horse-drawn carriage businesses permitted hereunder. In addition, the Board shall be authorized to assist the Carriage Inspector in investigating complaints filed with the City against horse-drawn carriage businesses and drivers permitted hereunder.

4. Amend the ordinance to authorize the Carriage Permit Advisory Board to conduct inspections of the stables, at least once a year, and at other times whenever complaints are filed, and provide that this annual inspection be other than the annual inspection performed by the veterinarian under the zoning ordinance. Add a procedure for registering complaints.

A new Section 2 would be added to the ordinance and the remaining sections renumbered sequentially. That section would read as follows:

Section 2 - Carriage Inspector

The Carriage Inspector is hereby authorized to inspect horse-drawn carriages, and to grant permits to companies and to drivers under the provisions of this Chapter. Pursuant to applicable law, the Carriage Inspector is directed to conduct inspections of the stables where the horses are kept for hose-drawn carriage businesses permitted hereunder at least once a year, and at other times whenever complaints are filed in order to determine compliance with this Chapter. These inspections shall be separate from those inspections of the stables required by veterinarians under Section 30-7-1 (L) of the Code of Ordinances. The Carriage Inspector is also authorized to receive and hear any complaints with regard to compliance with this Chapter by those permitted hereunder.

5. Add civil penalties.

Section 28 of the ordinance provides for revocation of the permits in the event of failure to comply with the requirements of the ordinance. In addition the Code of Ordinances for the City of Asheville includes a general

provision that, unless otherwise specified, violation of a City ordinance constitutes a misdemeanor.

* * * * * * * * * * *

MEMORANDUM TO: Doug Bean, City Manager

FROM: Patsy Brison, Assistant City Attorney

DATE: August 15, 1990

SUBJECT: Ordinances Regulating Horse-Drawn Carriage Businesses

At the City Council meeting on May 1, Council members asked for certain reports and information on these ordinances. The reports and information on those is as follows:

1. Prepare a summary of all ordinances which the City of Asheville has, or is in the process of adopting, which would affect horse-drawn carriage businesses. Those applicable ordinances would be as follows:

   A. The new ordinance regulating the operation of horse-drawn carriages.

   B. The amendment to the zoning ordinance to allow stables for horse-drawn carriage businesses as conditional uses in certain zoning districts (Central Business District, Commercial Service District, Light Industrial District and Heavy Industrial District).

   C. The privilege license ordinance. Operators of the businesses would need to obtain a privilege license, which would be based upon gross receipts.

   D. The animal control ordinance. A written permit is required to be issued by the animal control officer before you can keep horses in the City limits. The animal control officer is responsible for inspecting the premises where the permit for keeping livestock is desired. In making such inspection, the animal control officer ascertains whether or not the premises, including any stables, sheds or other enclosures, are in a clean, sanitary and healthful condition.

E. Construction or renovations of any building as a stable would have to meet local and State Building Code requirements.

F. Applicable traffic regulations from Chapter 28 of the Code of Ordinances.

Other than the above, there may be State traffic regulations and State health regulations which would also affect these businesses.

2. Check with Charleston, South Carolina, and Covington, Kentucky, to find out what requirements they have for stables located within their city limits and what experience they have had with those requirements.

Charleston, South Carolina, does not have requirements for stables located within their city limits as they are not allowed in their city limits. There have been stables located within their city limits, but those were "grandfathered."

The City of Covington, Kentucky, has not had any problems with stabling, despite the fact that the stables were located in the middle of the city.

3. Provide City Council with copies of the ordinances from Charleston, South Carolina, and Covington, Kentucky, which regulate the condition and location of the stables.

The only ordinances which these two cities have with regard to horse-drawn carriage businesses are attached.

4. Call the City of Minneapolis, Minnesota, to see if they adopted guidelines entitled "Recommended Guidelines for Urban Horse and Carriage Operations" published by the Center to Study Human-Animal Relationships and Environments at the University of Minnesota, Minneapolis, Minnesota, in cooperation with the Minnesota Horse Council.

The City of Minneapolis has not adopted those, even though they have horse-drawn carriages. They are familiar with the Guidelines, but they chose not to adopt them as they felt they were more complex than what they wanted. We also checked with the University of Minnesota to find out if other cities had adopted those Guidelines. They did not know of any cities which have adopted them.

5. Investigate deputizing animal cruelty investigators.

   Attached is a copy of Article 4 of Chapter 19A of the North Carolina General Statutes which authorizes such investigations. As you will note, the Board of Commissioners is the proper authority for establishing these investigators.

6. Check with Charleston, South Carolina, to determine why they established a liability insurance limit of $1 Million. Determine whether or not we should raise our $300,000 limit to a $1 Million limit.

   A report on that is attached.

7. Provide a record of average traffic flow in the downtown area where the routes would be during the "lunch hour" and during other "rush hours."

   A copy of a report is attached.

8. Provide an administrative report on how this ordinance, and the zoning amendment ordinance, would be enforced. Include a report on what type of training City staff would receive to be able to enforce these ordinances.

   A copy of a report is attached.

Virginia Smidt said she was not in favor of a horse-drawn carriage business in the City of Asheville but if Council is going to allow the businesses the provisions should be strictly enforced. She strongly emphasized the need for an animal cruelty investigator independent of the Carriage Inspector. She said the drivers of the carriages need testing before being permitted to drive the carriages. She presented a petition against horse-drawn carriage businesses.

Mike Grasco, Vice-President of WNC Animal Rights Association, strongly protested the adoption of a horse-drawn carriage ordinance.

Councilman Ellison moved to amend Ordinance No. 1840 to include all the amendments outlined by the Assistant City Attorney and to make the effective date of Ordinance No. 1840 October 1, 1990. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1840, as amended, passed on third and final reading.

Memorandum

To: Doug Bean
City Manager

From: Leslie Anderson
Director of Downtown Development

Date: August 24, 1990

Subject: Horse Drawn Carriages

Doug, in response to the questions that you asked me to check into concerning the horse drawn carriages, I was able to find out the following information:

Question 6: Check with Charleston, South Carolina to determine why they established a liability insurance limit of $1 million. Determine whether or not we should raise our $300,000 limit to a $1 million limit.

We have tried to contact the right person in Charleston and after three tries have still not connected. One staffer told us that she thought the vendors had asked for this amount. Savannah has carriages also and they require a $1 million limit. At the time when the ordinance was drafted, Mr. Miall felt that this amount was adequate. Once we get a more definitive response from Charleston perhaps we could further evaluate it.

Question 7: Provide a record of average traffic flow in the downtown area where the routes would be during the "lunch hour" and during other "rush hours."

6

Please find attached a map with the traffic counts for various downtown streets with the route proposed by Mr. Fleming indicated. Of course, Mr. Fleming is no longer interested in being in the business and routes by other interested parties have not been determined. The counts shown are for daily averages.

Question 8: Provide an administrative report on how this ordinance and the zoning amendment would be enforced. Include a report on what type of training City staff would receive to be able to enforce these ordinances.

I suggest the enforcement of the ordinance be handled by current City staff as following:

- Zoning enforcement: Zoning Staff
- Sections relative to treatment of animals: Animal Warden
- Sections relative to vehicles and driver: Motor Transport Director
- Overall contact: Police Department

Training for the individuals listed above would be provided by the normal training procedures. Perhaps the animal warden would want to receive some training about horses from the SPCA, veterinarians, written materials or other resources.

To investigate what other cities do, I called Covington, Kentucky and Charleston, South Carolina. In Covington, problems generally come first to the police. Zoning problems are referred to zoning enforcement. For animal related concerns, the animal warden gets involved. The warden does a written report and he/she can shut down the operation if deemed appropriate. If there is a clear violation, the police and the animal warden can order the operation to cease and desist.

In Charleston, the Tourism Commission accepts complaints. If the vehicles look any different from the approved pictures, they can order them upgraded. The Commission has tourism enforcement officers who do investigations and the Director of Tourism can close down operations. Training for the officers concerning the horses is done through the Police Department who have a mounted patrol. For any zoning violations, the Director of Tourism also makes inspections and can shut them down. The staff person I talked with said that problems occur very infrequently because this is the livelihood of the operators and they want to do quality work to get and keep business and community support.

(1,819)
SPRUCE STREET
ACT
MARKET
WALNUT STREET
STREET
S. PARK SQUARE
BILTMORE AVENUE
BROADWAY
(3,010)
STREET
S. LEXINGTON AVENUE
(3,200)
AVENUE (4,399)
(1,848)
CHURCH STREET
COLLEGE
STREET
LEXINGTON
RANKIN AVENUE
WALNUT
STREET
PATTON AVENUE
HAYWOOD STREET
(6,316)
AVENUE (1,021)
(1,077)
COXE
CIVIC CENTER
HIAWASSEE
STREET
PARK
BATTERY
STREETS
MALL
(1,605) PAGE AVENUE
(4,967) (2,794)
OTIS STREET

§ 19A-37. Application of Article.

This Article shall not apply to a place or establishment which is operated under the immediate supervision of a duly licensed veterinarian as a hospital where animals are harbored, boarded, and cared for incidental to the treatment, prevention, or alleviation of disease processes during the routine practice of the profession of veterinary medicine. This Article shall not apply to any dealer, pet shop, public auction, commercial kennel or research facility during the period such dealer or research facility is in the possession of a valid license or registration granted by the Secretary of Agriculture pursuant to the provisions of United States Public Law 89-544. This Article shall not apply to any individual who occasionally boards an animal on a noncommercial basis, although such individual may receive nominal sums to cover the cost of such boarding. (1977, 2nd Sess., c. 1217, s. 18.)

§ 19A-38. *Use of license fees.*

All license fees collected shall be used in enforcing and administering this Article. (1977, 2nd Sess., c. 1217, s. 19.)

§ 19A-39. Article inapplicable to establishments for training hunting dogs.

Nothing in this Article shall apply to those kennels or establishments operated primarily for the purpose of boarding or training hunting dogs. (1977, 2nd Sess., c. 1217, s. 21; 1979, c. 734, s. 2.)

§§ 19A-40 to 19A-44: Reserved for future codification purposes.

ARTICLE 4.

Animal Cruelty Investigators.

§ 19A-45. Appointment of animal cruelty investigators; term of office; removal; badge; oath; bond.

(a) The board of county commissioners is authorized to appoint one or more animal cruelty investigators to serve without any compensation or other employee benefits in his county. In making these appointments, the board may consider persons nominated by any society incorporated under North Carolina law for the prevention of cruelty to animals. Prior to making any such appointment, the board of county commissioners is authorized to enter into an agreement whereby any necessary expenses of caring for seized animals not collectable pursuant to G.S. 19A-47 may be paid by the animal cruelty investigator or by any society incorporated under North Carolina law for the prevention of cruelty to animals that is willing to bear such expense.

(b) Animal cruelty investigators shall serve a one-year term subject to removal for cause by the board of county commissioners. Animal cruelty investigators shall, while in the performance of their

official duties, wear in plain view a badge of a design approved by the board identifying them as animal cruelty investigators, and provided at no cost to the county.

(c) Animal cruelty investigators shall take and subscribe the oath of office required of public officials. The oath shall be filed with the clerk of superior court. Animal cruelty investigators shall not be required to post any bond.

(d) Upon approval by the board of county commissioners, the animal cruelty investigator or investigators may be reimbursed for all necessary and actual expenses, to be paid by the county. (1979, c. 808, s. 1.)

§ 19A-46. Powers; magistrate's order; execution of order; petition; notice to owner.

(a) Whenever any animal is being cruelly treated as defined in G.S. 19A-1(2), an animal cruelty investigator may file with a magistrate a sworn complaint requesting an order allowing the investigator to provide suitable care for and take immediate custody of the animal. The magistrate shall issue the order only when he finds probable cause to believe that the animal is being cruelly treated and that it is necessary for the investigator to immediately take custody of it. Any magistrate's order issued under this section shall be valid for only 24 hours after its issuance. After he executes the order, the animal cruelty investigator shall return it with a written inventory of the animals seized to the clerk of court in the county where the order was issued.

(b) The animal cruelty investigator may request a law-enforcement officer or animal control officer to accompany him to help him seize the animal. An investigator may forcibly enter any premises or vehicle when necessary to execute the order only if he reasonably believes that the premises or vehicle is unoccupied by any person and that the animal is on the premises or in the vehicle. Forcible entry shall be used only when the animal cruelty investigator is accompanied by a law-enforcement officer. In any case, he must give notice of his identity and purpose to anyone who may be present before entering said premises. Forcible entry shall only be used during the daylight hours.

(c) When he has taken custody of such an animal, the animal cruelty investigator shall file a complaint pursuant to Article 1 of this Chapter as soon as possible. When he seizes the animal, he shall leave with the owner, if known, or affixed to the premises or vehicle a copy of the magistrate's order and a written notice of a description of the animal, the place where the animal will be taken, the reason for taking the animal, and the investigator's intent to file a complaint in district court requesting custody of the animal pursuant to Article 1 of this Chapter.

(d) Notwithstanding the provisions of G.S. 7A-305(c), any person who commences a proceeding under this Article or Article 1 of this Chapter shall not be required to pay any court costs or fees prior to a final judicial determination as provided in G.S. 19A-4, at which time those costs shall be paid pursuant to the provisions of G.S. 6-18.

(e) Any judicial order authorizing forcible entry shall be issued by a district court judge. (1979, c. 808, s. 1.)

§ 19A-47. Care of seized animals.

The investigator must take any animal he seizes directly to some safe and secure place and provide suitable care for it. The necessary expenses of caring for seized animals, including necessary veterinary care, shall be a charge against the animal's owner and a lien on the animal to be enforced as provided by G.S. 44A-4. (1979, c. 808, s. 1.)

§ 19A-48. Interference unlawful.

It shall be a misdemeanor punishable by a fine of up to two hundred dollars ($200.00) or not more than ninety days imprisonment, or both, to interfere with an animal cruelty investigator in the performance of his official duties. (1979, c. 808, s. 1.)

§ 19A-49. Educational requirements.

Each animal cruelty investigator at his own expense must attend annually a course of at least six hours instruction offered by the North Carolina Humane Federation or some other agency. The course shall be designed to give the investigator expertise in the investigation of complaints relating to the care and treatment of animals. Failure to attend a course approved by the board of county commissioners shall be cause for removal from office. (1979, c. 808, s. 1.)

Councilman Ellison moved that the Carriage Permit Advisory Board be established and the members appointed within the next thirty (30) days. This motion was seconded by Vice-Mayor Moore and carried unanimously.

C. **Ordinance No. 1846 - Second reading of an ordinance allowing horse stables as a conditional use in CBD, CS, LI, and HI zoning districts.**

Mayor Michalove said the Planning and Zoning Commission on April 4, 1990, reviewed and recommended approval of amending Chapter 30 of the Code of Ordinances to allow horse stables for horse drawn carriage operations to be allowed as a conditional use in the Central Business, Commercial Service, Light and Heavy Industrial zoning districts. This ordinance was read on first reading on May 1, 1990.

Patsy Brison, Assistant City Attorney, reviewed the following report relative to issues previously raised and the proposed amendments to the ordinance to address those issues:

MEMORANDUM TO: Doug Bean, City Manager

FROM: Patsy Brison, Assistant City Attorney

DATE: August 15, 1990

SUBJECT: Ordinance Allowing Horse Stables as a Conditional Use

Certain issues were raised by the public and City Council members at the City Council meeting on May 1 with regard to the zoning ordinance amendment allowing stables for horse-drawn carriage businesses as a conditional use in certain zoning districts. Those issues and proposed amendments to the ordinance to address those issues are set forth as follows:

1. Include reference to animal control permit requirement - See Section 30-7-1 (L) (5).

2. Include a requirement about food provided to the horses - Not included as this type of requirement cannot be included as part of the conditions for a conditional use in zoning districts. The City would also be without authority to enact such a requirement in another type of ordinance.

3. Include size requirements for stalls in [illegible] stables - A new number 2 under Section 30-7-1 (L) could be added as follows:

Section 30-7-1 (L) (2)

Stable stalls shall be a minimum of 12 feet by 12 feet per horse.

4. Examine provisions from the "Recommended Guidelines For Urban Horse and Carriage Operations" published by the Center to Study Human-Animal Relationships and Environments at the University of Minnesota, Minneapolis, Minnesota, in cooperation with the Minnesota Horse Council. Sections 2 and 3 of those recommendations were specifically mentioned.

   Those provisions were examined and were incorporated whereever deemed practicable.

5. Include a requirement that a representative of the SPCA or some other animal rights group be able to inspect the stables where the horses are located, at any time - Only City employees have authority to conduct such inspections or to request other professionals to give reports of such inspections. A provision was added to Section 30-7-1 (L) (2) to note that the inspection by a licensed veterinarian of the stables shall be by a veterinarian with experience in the care and treatment of horses.

A separate memo includes responses to requests for information. A suggested revision of Section 30-7-1 (L) is set forth below. It does not incorporate the language with regard to the size of the stables. The portions changed since the first reading of the ordinance are underlined.

L. Horse Stables.

1. All horses, mules or other beast of burden must be stabled, washed and fed within an enclosed building. <u>Provided, however, this provision shall not be applicable in zoning districts other than the Central Business District so long as the animals are maintained within a fenced area, no part of which is closer than 150 feet from any household or place of business other than that of the owner of the animals.</u>

2. An annual inspection by a licensed veterinarian (D.M.V.) shall be conducted for both the sanitary conditions of the stable facility and health of the animals and submitted to the animal control officers within 30 days of inspection. <u>The veterinarian shall have experience in the care and treatment of horses.</u>

3. On-site waste collection receptacles shall be housed within the stable building and all waste shall be disposed of in a sanitary fashion no less frequently than one time per week.

4. The drainage of all liquid by products from stable shall be discharged into a permitted sanitary sewer line and shall not be disposed of by way of storm sewers.

5. No horse, mule or other beast of burden shall be maintained except pursuant to the permit issued by the City Manager or his designee in accordance with Chapter 5 of the Code of Ordinances.

Councilman Ellison moved to amend Ordinance No. 1846 to include the amendments outlined by the Assistant City Attorney. This motion was seconded by Councilman Estes and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1846, as amended, passed on second reading.

Councilman Ellison moved to suspend the rules and proceed with the third and final reading of Ordinance No. 1846 making the effective date of Ordinance No. 1846 October 1, 1990. This motion was seconded by Vice-Mayor Moore and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1846, as amended, passed on third and final reading.

Ordinance Book No. 12 - Page 117 - 118

IV. NEW BUSINESS:

A. Ordinance No. 1864 - Ordinance amending Chapter 19A of the Code of Ordinances of the City of Asheville. (Personnel Ordinance)

Mayor Michalove said a draft comprehensive Personnel Ordinance has been developed. It incorporates the recommendations of several employee committees. The ordinance will be supplemented by Civil Service Rules and Regulations and City-wide personnel policies.

The City Manager advised that in addition to the adoption of the ordinance Council will need to consider the adoption of resolutions approving a new Personnel Policy and approving rules of the Civil Service Board. He said this action could be taken at the third reading of the Personnel Ordinance.

The City Manager advised Council members that the additional "floating" holiday and change in annual and sick leave that was originally proposed in the ordinance has been deleted for time being.

David McFee, with the Asheville Fire Department, reiterated his concerns regarding the proposed change in the provision on workers' compensation which no longer allows an employee who suffers a work related injury or illness to supplement his/her worker's compensation payment with accrued sick or annual leave.

Pam McGrayne, Personnel Director, said that recommendation was received from the Risk Manager. She said the Employee Committee for Leaves of Absence did not make a recommendation on this provision.

After discussion, it was the consensus of Council, at the request of Councilman Ellison, to change this provision to allow an employee to supplement his/her worker's compensation payment with accrued sick or annual leave up to an amount not to exceed his/her basic "take home pay".

David Anders, with the Asheville Fire Department, said he felt the workers' compensation provision should remain as it now stands to allow an individual to supplement the payments by using 1/3 of their accrued sick or annual leave.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Vice-Mayor Moore moved for the adoption of Ordinance No. 1864. This motion was seconded by Councilman Ellison.

On a roll call vote of 7-0, Ordinance No. 1864 passed on first reading.

B. **Ordinance No. 1865 - Budget Ordinance amendment to appropriate current year CDBG Entitlement Grant Funds.**

The City Manager said the City has recently received its Letter of Credit from HUD in the amount of $965,000 for the current year CDBG program. The allocation of these funds were approved by City Council on May 22, 1990 in Resolution Number 90-71. This ordinance will appropriate funds into the budget.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Estes moved for the adoption of Ordinance No. 1865. This motion was seconded by Vice-Mayor Moore.

On a roll call vote of 7-0, Ordinance No. 1865 passed on first and final reading.

Ordinance Book No. 12 - Page 258

C. **Ordinance No. 1866 - Budget ordinance amendment to appropriate funding for Day Camp programs.**

The City Manager said three additional Summer Day Camps were implemented in June, 1990, in cooperation with the City School System. These programs are totally offset by revenues. This budget amendment will set up cost centers for these Day Camps in order to properly track expenditures.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Bratton moved for the adoption of Ordinance No. 1866. This motion was seconded by Vice-Mayor Moore.

On a roll call vote of 7-0, Ordinance No. 1866 passed on first and final reading.

Ordinance Book No. 12 - Page 259

V. CONSENT:

A. **Scheduling public hearing relative to Asheville Transit Authority Operating Assistance Funds Under Section 9 for FY 91 for September 25, 1990.**

SUMMARY: This public hearing is required for the annual operating assistance grant application for transit operations.

B. **Resolution No. 90-120 - Resolution appointing member to the Asheville Area Civic Center Commission.**

SUMMARY: Debbie Decker has resigned as a member of the Asheville Area Civic Center Commission. This resolution will appoint Joe Eblen to serve the unexpired term of Debbie Decker, term expiring June 30, 1991, or until her successor is duly appointed and qualified.

Resolution Book No. 18 - Page 20

Upon motion of Councilman Bratton, seconded by Councilman Frank, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

Resolution No. 90-121 - Resolution authorizing the City Manager to settle claims made by the City of Asheville against third parties for property damage or personal injury claims

The City Attorney said from time to time the City of Asheville files claims against third parties for property damage to property it owns, leases or maintains or for personal injury to its employees or officials. He said it is necessary to authorize settlement by the City Manager of those claims. He said this resolution will authorize, upon written recommendation from the City Attorney, the City Manager to execute documents for settlement of claims made against third parties by the City of Asheville for property damage or personal injury.

Upon motion of Councilman Ellison, seconded by Vice-Mayor Moore, Resolution No. 90-121 was unanimously approved.

Resolution Book No. 18 - Page 201

Claims - Allan Ownbey (Water) - Vaughn Featherstone (Sanitation) - Jason T. Wallace (Police)

The City Manager said claims have been received from Allan Ownbey, Vaughn Featherstone, and Jason T. Wallace. He said the City also collected a claim from Martha R. Mease in the amount of $49.32.

Mayor Michalove referred the claims to the appropriate insurers for investigation.

Lawsuit - Carla Harris, et al (Police Department - Re: Michael Harris)

The City Manager reported that the city was served with a lawsuit on July 31, 1990 involving alleged excessive force by Police Department officers resulting in death of Michael Harris.

Mayor Michalove referred the lawsuit to the appropriate legal counsel for action.

Councilman Estes - Request to Save Biltmore School - Employee Picnic

Councilman Estes said he had received a request from individuals to ask the City for $300,000 to help in their efforts to save the old Biltmore School.

Councilman Estes commended the City Staff for their efforts in promoting the Annual City Employees Picnic held on August 25, 1990.

John Walsh - Comments relative to Horse-Drawn Carriages

John Walsh said he felt the Horse-Drawn Carriage businesses should put on tours at night throughout downtown.

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 7:15 p.m.

MAYOR

CITY CLERK

Tuesday - September 11, 1990 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, and Eugene W. Ellison; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Charles Penny, Assistant City Manager/Deputy City Clerk

Absent: Councilmen Norma T. Price, Wilhelmina Bratton, and William W. Estes; City Clerk William F. Wolcott, Jr.

INVOCATION

The invocation was given by Bishop Robert Johnson of the Episcopal Diocese in Western North Carolina.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the minutes of the August 28, 1990 meeting.

ANNOUNCEMENT

Mayor Michalove announced that Councilmen Norma T. Price, Wilhelmina Bratton and William W. Estes were absent due to them being out of town.

I. PROCLAMATIONS:

A. Proclamation - "Ducky Derby Days" September 15 and 16, 1990.

Mayor Michalove read the proclamation and presented it to Jerry Grant, Chairman for the Ducky Derby. Mr. Grant said 20,000 yellow, rubber duckies will be launched September 15 and 16 to raise money for critically ill and injured children at Memorial Mission Hospital. Mr. Grant said "Ducky Derby" features two events - a Saturday night "Derby Dance" and the Sunday afternoon "Rubber Duck River Dash." He said all money raised during the 2-day Derby is earmarked for equipping the new Pediatric Intensive Care Unit to be housed in the East Tower at Mission Hospital.

Mayor Michalove said duck sponsorships are being offered to the community at a cost of $5 per duck and can be obtained at all major banks and all local Hallmark outlets. He encouraged the citizens of Asheville to participate in this very worthy cause.

B. **Presentation of Historic Preservation Foundation Award.**

Mayor Michalove said the City of Asheville was chosen by the Historic Preservation Foundation of North Carolina to receive a 1990 Gertrude S. Carraway Award of Merit for its outstanding efforts in the field of preservation. He said only eight such awards will be presented in North Carolina this year.

Mayor Michalove recognized Mrs. Grace Pless, who introduced The Honorable John Wesley Jones, former Ambassador to Libya and Peru, who served six years on the State Historic Resources Advisory Board. Mr. Jones presented the award to Mayor Michalove. Mr. Jones said the prestigious award is being presented to the City of Asheville for its long-standing commitment and outstanding achievement in its efforts toward historic preservation in the City of Asheville.

Mrs. Pless introduced members of the Historic Preservation Foundation who were present at the meeting - Keith Roberts, Marie Colton, Kent Newell, and Jeanne Warner.

B. **Resolution No. 90-122 - Resolution of appreciation for recent retiree, Troy E. McHone.**

Mayor Michalove read the resolution.

Mayor Michalove presented the resolution to Chief Beavers for delivery to Lt. McHone.

Upon motion of Vice Mayor Moore, seconded by Councilman Ellison, Resolution No. 90-122 was unanimously approved.

Resolution Book No. 18 - Page 202

C. **Resolution No. 90-123 - Resolution of appreciation for recent retiree, Mary Lla Leet Hudson.**

Mayor Michalove recognized Lla Leet Hudson and read the resolution.

Mayor Michalove said Ms. Hudson retired from her position as Fringe Benefits Specialist effective July, 1990, after 21 years of service. He said Mrs. Hudson

had faithfully served the needs of City employees and their families and had been instrumental in the development of a multifaceted Fringe Benefits Program for the City.

Upon motion of Councilman Ellison, seconded by Vice Mayor Moore, Resolution No. 90-123 was unanimously approved.

Councilman Frank said she appreciated the expeditious manner in which Mrs. Hudson had obtained information for the Police Pension Board.

Resolution Book No. 18 - Page 203

D. **Proclamation - "French Broad River Week" - September 15-23, 1990.**

Mayor Michalove proclaimed the week of September 15-23, 1990, as "French Broad River Week."

F. **Proclamation - "Rehabilitation Week" - September 16-22, 1990.**

Mayor Michalove proclaimed the week of September 16-22, 1990, as "Rehabilitation Week."

II. PUBLIC HEARINGS:

III. OLD BUSINESS:

A. **Resolution 90-124 - Resolution to close a portion of Beaver Drive.**

Mayor Michalove said a petition signed by all property owners along the unopened portion of Beaver Drive has been received. He said there would be no adverse effects from closing the right-of-way, and that the Lake View Park Commission has been notified of the proposed closing. He said a public hearing was held on this matter on August 7, 1990, and action on the resolution was postponed to give an adjacent property owner an opportunity to negotiate the closing with another property owner.

City Attorney William F. Slawter said Ms. McCracken had been successful in her negotiations with Mr. Lamy and had acquired a deed, which would be recorded later.

Mayor Michalove said Members of Council were previously furnished copies of the resolution, and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Vice Mayor Moore, Resolution No. 90-124 was unanimously adopted.

Resolution Book No. 18 - Page 204

B. **Ordinance No. 1864 - An ordinance amending Chapter 19A of the Code of Ordinances of the City of Asheville (Personnel Ordinance) - Second Reading.**

Mayor Michalove said a draft comprehensive Personnel Ordinance has been developed. He said the proposed ordinance incorporates the recommendations of several employee committees. He said the ordinance will be supplemented by Civil Service Rules and Regulations and City-wide personnel policies. He said this ordinance was read on first reading on August 28, 1990.

Mayor Michalove said this ordinance was previously read and will not be reread in its entirety.

City Manager said staff is still trying to find a way to address the concern relative to worker's compensation, and that a report would be presented to City Council as part of the policies to be attached for next week's meeting.

David McFee of the Asheville Fire Department said he would prefer that the Council leave the policy as it is now stated. He also inquired about the status of payroll deductions, and was informed by Personnel Director Pam McGrayne that this would be according to city policy and that she would be happy to work this out with Mr. McFee.

On a roll call vote of 4-0, Ordinance No. 1864 passed on second ready.

Mayor Michalove said the ordinance would be considered on third and final reading, along with the policies, on September 18th.

IV. NEW BUSINESS:

A. **Ordinance No. 1867 - Budget Ordinance amendment appropriating funds for the lease/purchase of the City's Radio Communication system and provide for operating costs for radio management.**

Mayor Michalove said the City has negotiated with Wachovia for the funds and with Motorola for the equipment and installation. He said City Council adopted Resolution No. 90-111 on August 14, 1990, which approved the execution of the documents.

Mayor Michalove said this ordinance was previously presented to Members of the City Council and will not be read in its entirety.

Vice Mayor Moore moved for the adoption of Ordinance No. 1867. This motion was seconded by Councilman Frank.

On a roll call of 4-0, Ordinance No. 1867 passed on first and final reading.

Ordinance Book 12, Page 260

B. Bids for four (4) Brush Chippers for the Public Works Department.

City Manager Doug Bean said there had been many inconsistencies in the bid specifications, he would recommend that Council reject all bids and authorize staff to re-advertise the revised specifications.

Vice Mayor Moore moved to reject all bids and authorize staff to re-advertise the bids for the brush chippers. This motion was seconded by Councilman Ellison and carried unanimously.

C. Bids for the Roof Repair/Replacement of the Asheville City Hall Building.

City Manager Doug Bean said bids for the City Hall Building roof repair/replacement were received on July 12, 1990, by Wood and Port, P.A., Architect for the City Hall Renovation Project. He said he would recommend that the Council award the bid to the low bidder for the project - United Roofing & Metal, who submitted a base bid of $157,035 and an Alternate Bid of $86,490 for a total of $243,525.

Mr. Bean said the City Hall Building had suffered water damages from roof leaks. He said blistering and peeling of the roof surface has also been observed, and he would recommend reroofing as opposed to overlaying again. He said the recommended roofing system will consist of an E.P.D.M. single-ply rubber roofing membrane. He said this type roof had also been used at North Fork. Mr. Bean said all roof drains and strainers will be repaired or replaced and that all gutters will be coated and sealed.

Responding to questions from Councilman Ellison, Mr. Bean explained that the replacement of steel and plaster damage would be done by the contractor under the City Hall Renovation Project at a separate cost of

$37,844.00. He said that the base bid is for the Bell Tower and top roof, and the alternate bid is for the roof on the second floor.

Upon inquiry of Councilman Frank, Mr. Bean said there would be a 2-year warranty on labor and a 10-year warranty on materials.

Councilman Ellison moved to award the bid for the roof repair/replacement to the low bidder, United Roofing & Metal of Asheville, in the amount of $157,035 for the base bid and $86,409 for the alternate bid for a total of $243,525. This motion was seconded by Councilman Frank and carried unanimously.

D. **Ordinance No. 1868 - Budget Ordinance amendment to appropriate additional funding for the complete reroofing of City Hall Building.**

Mayor Michalove said due to extensive deterioration of the existing roofing on the built-up sections of the City Hall Building, a complete reroofing of these areas is necessary. He said this budget amendment will provide for this expenditure.

Mr. Bean said $200,000 will be transferred from the Capital Building Reserve Fund to the City Hall Renovation Budget for this project.

Mayor Michalove said this ordinance was previously presented to Members of the City Council and will not be read in its entirety.

Vice Mayor Moore moved for the adoption of Ordinance No. 1868. This motion was seconded by Councilman Frank.

On a roll call vote of 4-0, Ordinance No. 1868 passed on first and final reading.

Ordinance Book 12, Page 261

E. **Resolution No. 90-125 - Resolution stating the intent of the City of Asheville to consider the annexation of an area known as the West area and fixing the date of the public hearing on the question of annexation.**

Mayor Michalove said the North Carolina General Statutes provides that any municipal governing board desiring to annex territory under the provisions of General Statutes 160A-49 shall first pass a resolution stating the intent of the municipality to consider annexation.

Patty Tallerday said this resolution states the intent of the City of Asheville to consider the annexation of an area West of the City Limits. She said this resolution will schedule a public hearing on the question of annexation at 7:00 P.M. on November 13, 1990. She said a report setting forth plans for the extension of municipal services to the area proposed for annexation will be presented for adoption by City Council at least 30 days prior to the date of the public hearing.

Responding to Councilman Ellison, Ms. Tallerday said the area in question includes the same area as the prior annexation that had failed. However, she said, with the exclusion of over 90 acres, the vacant land compensates for the discrepancy that existed in the previous annexation attempt.

Mr. Tom Plemmons, resident of the area being considered for annexation, requested a description of the boundaries and that Council try to schedule the public hearing at the Enka High School or the Sand Hill School.

Mr. William V. Henry of 98 Starnes Cove Road, Enka, promised Council that they would be in for another fight on the annexation. He said he questioned the City's ability to annex areas when he saw in the paper there were 146 crimes in the City of Asheville as opposed to 34 crimes in Buncombe County.

Mayor Michalove said staff would have copies of the service plan available in the City Clerk's Office at least 30 days before the public hearing. He said the plan would be reviewed at the public hearing, and everyone would be given an opportunity to comment on the plan.

Councilman Ellison assured Mr. Henry and Mr. Jones that he would study the issue thoroughly prior to the official vote to annex the area, but that the action today was needed to begin the process. He said all residents of the area in question, as well as any other citizen of Asheville, would be heard on the question of annexation at the public hearing on November 13th.

Craig Roberts, resident of Green Valley Road, said his property is close to the proposed annexation said the City is trying to bring a lot of people into the area who don't want to become city residents and this is

going to have a negative impact on the City. He encouraged Council to give more consideration to the public relations of this matter.

Mayor Michalove said Members of Council were previously furnished copies of the resolution, and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Vice Mayor Moore, Resolution No. 90-125 was unanimously adopted.

Resolution Book No. 18 - Page 204 & 205

V. CONSENT:

At the request of Vice Mayor Moore, items under the Consent Agenda were considered individually.

A. Resolution No. 90-126 - Resolution directing the City Clerk to advertise an offer of purchase for upset bids regarding property on Bear Creek Road.

Mayor Michalove said the City owns a parcel of land on Bear Creek Road. He said Grover C. Mathews, an adjacent property owner, has made an offer of $4,500 for the purchase of this property.

City Manager Doug Bean said the City has no anticipated use for the property, other than reservation of certain utility easements. Before the sale can be authorized, a notice of the offer must be published in the newspaper. This resolution will direct the City Clerk to publish the required notice. Assuming there is no upset bid, a subsequent resolution will authorize the Mayor to execute the deed conveying the property and any other closing documents.

Upon inquiry of Vice Mayor Moore, City Attorney William F. Slawter said an appraisal of the property is not available today, but that one would be done at Mr. Mathews' expense and that information would be available when this matter comes back before the City Council. He said Mr. Mathews offer was based on the 1990 tax valuation.

Mayor Michalove said Members of Council were previously furnished copies of the resolution, and it would not be read in its entirety.

Upon motion of Vice Mayor Moore, seconded by Councilman Frank, Resolution No. 90-126 was unanimously adopted.

Resolution Book No. 18 - Page 206

B. **Motion - Scheduling public hearing relative to rezoning of property on Swannanoa River Road for Gold Dot Foods for September 25, 1990.**

Mayor Michalove said the Asheville Planning and Zoning Commission on August 8, 1990, reviewed and recommended approval of rezoning a part of the southeastern portion of Lot 40 of Ward 8, Sheet 6 as shown on the Buncombe County tax maps (Swannanoa River Road) from R-3 Residential District to LI Light Industrial.

Vice Mayor Moore pointed out that John Cram, who owns 8 acres abutting the property to be rezoned, did not receive a notice. He requested that Mr. Cram be given official notice of the public hearing.

Councilman Frank moved to schedule the public hearing relative to the rezoning of property on Swannanoa River Road for Gold Dot Foods for September 25, 1990. This motion was seconded by Councilman Ellison and carried unanimously.

VI. OTHER BUSINESS:

A. **Resolution No. 90-127 - Resolution appointing member to the Asheville Transit Authority**

Mayor Michalove said as previously discussed at the Midyear City Council Retreat due to the resignation of Mable Hopkins, an appointment was needed to the Asheville Transit Authority. He said Grace Dorn has agreed to serve on the Authority and will serve the unexpired term of Mable Hopkins, term expiring December 31, 1992.

Upon motion of Vice Mayor Moore, seconded by Councilman Ellison, Resolution No. 90-127 was unanimously adopted.

Resolution Book No. 18 - Page 212

B. Group Development - Aberdeen Meadows

Planning Director Julia Director presented the Aberdeen Meadows Group Development for City Council's consideration. She said the Asheville Planning and Zoning Commission had reviewed and approved the site plan with one contingency on September 5, 1990, approval by the Federal Emergency Management Agency of the requested revisions to the flood elevations of Beaverdam Creek in the project area.

Ms. Cogburn said Mr. and Mrs. J. Stanley Crum are proposing the development of 20, 2-bedroom apartments on a 3.29 acre site located at the intersection of Beaverdam Road and Killian Road approximately 60 feet from its intersection with Beaverdam Road. She said several residents had voiced opposition to the development at the hearing before the Planning and Zoning Commission, and that a petition had been received opposing the project. In addition, she said staff had recommended denial of the project based on traffic and sewer concerns.

Ms. Cogburn answered questions from City Council Members relative to the traffic and sewer concerns. As it pertains to these concerns, she said the difference in consideration of this development and 20 individual homes would be that the homes would be considered on an individual basis.

Vice Mayor Moore moved to schedule a public hearing on the site plan of the proposed Aberdeen Meadows Development for September 25, 1990. This motion was scheduled by Councilman Frank and carried unanimously.

C. Petition - Overlook Place Residents

Mayor Michalove said he had received a petition from the residents of Overlook Place petitioning the City to place Overlook Place (North) on the City's street system. He presented the petition to the City Manager for review and recommendation.

D. Ralph Bishop

Ralph Bishop appeared before the City Council asking why nobody will take any action to rectify the wrongs he brings to the attention of the City Council.

E. Homer S. Kennedy - Inquiry on public meeting schedule relative to Public Works Complex Site

Homer Kennedy inquired about the date of the meeting scheduled relative to the Public Works Complex site.

Mayor Michalove told Mr. Kennedy the Council is waiting for the Task Force to complete its review, but that hopefully this meeting will be held at 4:00 P.M. on October 2, 1990,

Claims - Teresa Sapp (Water) - Bob Adams (Streets) - Tammy Lee Burke (Water) - Christopher Rollins (Streets) - Ellen Teague (Water) - Elizabeth Grier (Water) - Jeff and Elizabeth Wood - (Water) - Michael Williams (Water) - Ernie Welborn (Sewer) - Mike Ball (Water) - Tom Butler (Water) - Carolyn Chandler (Water) - Virginia McCullers (Water) - John Holt (Sewer) and Glenda Briggs (Sewer)

The City Manager said claims have been received from Teresa Sapp (Water), Bob Adams (Streets), Tammy Lee Burke (Water), Christopher Rollins (Streets), Ellen Teague (Water), Elizabeth Grier (Water), Jeff and Elizabeth Wood (Water), Michael Williams (Water), Ernie Welborn (Sewer), Mike Ball (Water), Tom Butler (Water), Carolyn Chandler (Water), Virginia McCullers (Water), John Holt (Sewer) and Glenda Briggs (Sewer).

In claims for the City, the City Manager said the City has recovered $1,092.75 from Alan D. Lambert and $616.95 from Velvet Ridge Greenhouses.

Mayor Michalove referred the claims to the appropriate insurers for investigation.

VII. ADJOURNMENT

Upon motion of Councilman Ellison, seconded by Vice Mayor Moore the City Council adjourned to Executive Session at 5:30 P.M.

H. M. Michalove
MAYOR

William F. Wilcutt
CITY CLERK

Tuesday - September 18, 1990 - 4:00 P.M.

Regular Meeting

Present: Vice-Mayor William G. Moore, Presiding; Councilmen Norma T. Price, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Assistant City Attorney Patsy Brison; Assistant City Manager Charles Penny; Deputy City Clerk Carol Hensley.

Absent: Mayor Kenneth M. Michalove - out on City business
Councilman Mary Lloyd Frank - out of town
Corporation Counsel William F. Slawter- out on City business
City Manager Douglas O. Bean - out on City business
Associate City Manager/City Clerk William F. Wolcott, Jr.- vacation

INVOCATION

The invocation was given by Vice-Mayor Moore.

APPROVAL OF MINUTES

Upon motion of Councilman Ellison, seconded by Councilman Estes the minutes of the September 11, 1990, meeting were approved as submitted..

I. PROCLAMATIONS:

A. Resolution No. 90-128 - Resolution of appreciation for recent retiree, James E. Roberts.

Vice-Mayor Moore read a resolution stating that Mr. Roberts has been with the City for 14 years. He worked in the Water Production Department as a Maintenance Mechanic and is now retiring.

Upon motion of Councilman Price, seconded by Councilman Ellison, Resolution No. 90-128 was unanimously adopted.

Resolution Book No. 18 - Page 213

B. Proclamation - "Minority Enterprise Development Week" - September 23 - 29, 1990

Vice-Mayor Moore read a proclamation proclaiming the week of September 23 - 29, 1990 as Minority Enterprise Development Week.

Marvin Vierra, Director of Community Development, introduced Dee Williams, with the Asheville Business Development Council, who accepted the proclamation and explained the importance of Minority Enterprise Development Week..

C. **Proclamation - "World Summit for Children" - September 23 - 29, 1990**

Vice-Mayor Moore read a proclamation proclaiming the week of September 23 - 29, 1990 as "World Summit for Children Week" and presented the proclamation to John Waterhouse, Asheville Vigil Coordinator, who highlighted the activities taking place during the week.

D. **Proclamation - "Greek Heritage Week" - September 17 - 23, 1990**

Vice-Mayor Moore read a proclamation proclaiming the week of September 17 - 23, 1990 as "Greek Heritage Week" and presented the proclamation to Chris Moutos, who highlighted the activities taking place during the week.

II. PUBLIC HEARINGS:

A. **Continuation of a public hearing relative to group development - Cottages at Richmond Hill Inn.**

Vice-Mayor Moore said the Asheville Planning and Zoning Commission on June 6, 1990, reviewed and approved the site plan with one contingency. This public hearing was continued from the August 7, 1990 meeting.

Julia Cogburn, Director of Planning, said members of Council had been furnished an extensive report relative to the Cottages at Richmond Hill Inn. She requested that the public hearing be continued until November 6, 1990.

Councilman Ellison moved to continue the public hearing until November 6, 1990 without further advertisement. This motion was seconded by Councilman Bratton and carried unanimously.

III. OLD BUSINESS:

A. Ordinance No. 1864 - Third reading of an ordinance amending Chapter 19A of the Code of Ordinances of the City of Asheville. (Personnel Ordinance)

Vice-Mayor Moore said a draft comprehensive Personnel Ordinance has been developed. It incorporates the recommendations of several employee committees. The

ordinance will be supplemented by Civil Service Rules and Regulations and City-wide personnel policies. This ordinance was read on first reading on August 28, 1990, and on second reading on September 11, 1990.

Upon request of Councilman Ellison, Pam McGrayne, Director of Personnel, clarified the actions to be taken at today's meeting. She also explained that payroll deductions are allowed under an administrative policy which allows for payroll deductions that are offered to all city employees. She said that policy will remain the same. She said the worker's compensation provisions had been amended to provide employees with the same net they had been able to receive under the existing policy.

On a roll call vote of 5-0, Ordinance No. 1864 passed on third and final reading.

Ordinance Book No. 12 - Page 229 - 257

IV. NEW BUSINESS:

A. Resolution No. 90-129 - Resolution authorizing the City Manager to institute an updated Personnel Policy.

Vice-Mayor Moore said the City Council desires to incorporate into a single document a personnel policy setting forth the rules of the Civil Service Board, the grievance procedure adopted by ordinance of the City Council and all remaining policies affecting personnel of the City of Asheville.

Councilman Ellison asked if this policy or the following rules to be adopted changes anything that is currently in effect.

Mrs. McGrayne said it changes the responsibility of the Civil Service Board as far as residency and leaves of absences provisions are concerned.

Upon motion of Councilman Price, seconded by Councilman Bratton, Resolution No. 90-129 was unanimously adopted.

Resolution Book No. 18 - Page 214

B. Resolution No. 90-130 - Resolution approving rules of the Civil Service Board of the City of Asheville.

Vice-Mayor Moore said that amended Rules of the Civil Service Board have been submitted to the City Council as part of a consolidation of all rules and regulations concerning personnel of the City of Asheville into a single personnel policy.

Upon motion of Councilman Price, seconded by Councilman Bratton, Resolution No. 90-130 was unanimously adopted.

Resolution Book No. 18 - Page 215

V. CONSENT:

A. **Resolution No. 90-131 - Resolution of intent to close alley extending from Short Street in a westerly direction and calling a public hearing on the question for October 16, 1990.**

SUMMARY: A petition to close the unnamed alley off Short Street and adjoining Lots 99, 100, 101, and 102 of Ward 3, Sheet 2 of the Buncombe County Tax maps has been received from the Asheville Housing Authority. The closing has been checked with City departments and public utility companies and should have no detrimental effects upon the operation of either the City or utility companies.

Resolution Book No. 18 - Page 216-217

B. **Resolution No. 90-132 - Resolution authorizing the Mayor to execute on behalf of the City of Asheville a North Carolina Department of Transportation, Grant Agreement for Project 9.9584894 for the Asheville Regional Airport Authority.**

SUMMARY: The North Carolina Department of Transportation has offered a grant to the Asheville Regional Airport Authority in the amount of $401,967 for "Phase II Baggage Claim/Rental Car/Second Floor Administrative Office Addition". Since the City of Asheville holds fee simple title to the property on which this project is to be and the City of Asheville leases same to the Airport Authority, the Department requires that the City of Asheville execute the Grant Agreement. This resolution will authorize the Mayor to execute the Grant Agreement.

Resolution Book No. 18 - Page 218

C. **Resolution No. 90-133 - Resolution authorizing the Mayor to execute on behalf of the City of Asheville a Federal Aviation Administration Grant Agreement for Project 3-37-0005-11 for the Asheville Regional Airport Authority.**

SUMMARY: The Federal Aviation Administration has offered a grant to the Asheville Regional Airport Authority in the amount of $701,599 to "Acquire Runway 16 Clear Zone; Approach

Clearing; Install perimeter fence; provide terminal graphics; and relocation assistance". The FAA requires that all sponsors execute the Grant Agreement. This resolution will authorize the Mayor to execute the Grant Agreement.

Resolution Book No. 18 - Page 219

Upon motion of Councilman Ellison, seconded by Councilman Bratton, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

A. Resolution No. 90-134 - Resolution appointing a member to the Asheville Regional Airport Authority

Councilman Price moved to appoint Otis Michael to the Asheville Regional Airport Authority to serve the unexpired term of Ivor Barrett who recently resigned as a member, term expiring June 30, 1994. This motion was seconded by Councilman Bratton and carried unanimously.

Resolution Book No. 18 - Page 220

B. Resolution No. 90-135 - Resolution authorizing the Mayor to grant a right-of-way easement for a road across city-owned property for the Wind-in-the Oaks Project

The Assistant City Attorney said Royall Development Co. Inc. has requested that the City grant an easement across property owned by the City which is adjacent to the Wind-in-the-Oaks Project in order to permit construction of a road which would tie other portions of the project to the new portion being developed as Tracts II and III.

Upon motion of Councilman Bratton, seconded by Councilman Ellison, Resolution No. 90-135 was unanimously adopted.

Resolution Book No. 18 - Page 221

C. Ralph Bishop - Right to Address Council

Ralph Bishop spoke to members of Council relative to his right to address Council.

D. Bill Fass - Problems with Water Service

Bill Fass said he was a resident of the county but owns businesses in the city. He said he was concerned about

the problems with the water service in the city. He said the recent water breaks have caused many problems with area businesses particularly in the west area. He said it was his understanding that City Council funds the water system and the Water Authority oversees the operations. He said it is also his understanding that a meeting has been scheduled by the Water Task Force for October 11, 1990 for individuals to voice their concerns about water service. He encouraged members of Council to attend this meeting. He said another source for water is needed and he encouraged the use of the French Broad River. He offered his assistance to this problem in any way possible.

Dennis Holder, businessman on Brevard Road, said he was also concerned about the water system and the problems water breaks have on businesses, particularly when businesses have to shut down their operations because of no water.

Vice-Mayor Moore and members of Council thanked Mr. Fass and Mr. Holder for their comments and accepted their offer of assistance.

CLAIMS - JACK HOWERTON (WATER) - MOLLY SURRETT (WATER) - RICK COLEMAN (WATER) - LORETTA LEDFORD (WATER) - HELEN LYDA (SEWER) - THOMAS MORGAN (SEWER) - NORMAN C. BRADFORD (INSPECTIONS)

Claims were presented from Jack Howerton, Molly Surrett, Rick Coleman, Loretta Ledford, Helen Lyda, Thomas Morgan, and Norman C. Bradford.

These claims have been referred to the appropriate insurers for investigation.

A permanent record of all claims is maintained by the Office of Risk Management.

VII ADJOURNMENT.

Councilman Estes moved to adjourn to executive session to discuss a legal matter. This motion was seconded by Councilman Price and carried unanimously.

W. M. Nichols
MAYOR

William F. Hoffett
CITY CLERK

Tuesday - September 25, 1990 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; ; Assistant City Manager Charles Penny; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: City Manager Douglas O. Bean

INVOCATION

The invocation was given by Councilman Frank.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the minutes of the September 18, 1990 meeting as submitted.

I. PROCLAMATIONS:

A. **Proclamation - "Asheville Area Chamber of Commerce Day" - September 27, 1990**

Mayor Michalove read a proclamation proclaiming September 27, 1990 as "Asheville Area Chamber of Commerce Day" in recognition of the contributions made by the Asheville Area Chamber of Commerce to our economy, businesses and quality of life.

B. **Proclamation - "Operation Desert Shield Airlift Week" - September 25 - September 30, 1990**

Mayor Michalove read a proclamation proclaiming September 25 - September 30, 1990 as "Operation Desert Shield Airlift Week" in recognition of the men and women who have left the Asheville and Western North Carolina area to serve in Saudi Arabia. This is also an appeal to their needs for personal items being collected by WWNC and WKSF/FM to make their stay more comfortable.

B. Resolution No. 90-136 - Resolution of appreciation to recent retiree, William G. Kelly.

Mayor Michalove read a resolution of appreciation to recent retiree, William G. Kelly, who has been with the

City for 27 years. He worked in the Police Department as a Lieutenant and retired in August, 1990.

Upon motion of Councilman Price, seconded by Vice-Mayor Moore, Resolution No. 90-136 was unanimously adopted.

Mayor Michalove presented the resolution to Chief Gerald Beavers, Police Chief. Chief Beavers said he would make sure Lieutenant Kelly received the resolution.

Resolution Book No. 18 - Page 222

C. Resolution No. 90-137 - Resolution of appreciation to recent retiree, Junior Lee.

Mayor Michalove read a resolution of appreciation to recent retiree, Junior Lee, who has been with the City for 26 years. He worked in the Water Maintenance Department as a Utility Operations Supervisor and retired in August, 1990.

Upon motion of Councilman Ellison, seconded by Councilman Price, Resolution No. 90-137 was unanimously adopted.

Mayor Michalove presented the resolution to Junior Lee.

Resolution Book No. 18 - Page 223

II. PUBLIC HEARINGS:

A. Public hearing relative to rezoning property on Swannanoa River Road for Gold Dot Foods.

Ordinance No. 1869 - Ordinance rezoning property located on Swannanoa River Road.

Mayor Michalove opened the public hearing at 4:17 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Carol Alberice, from the Planning Department, said the petitioner would like to rezone a part of the southeastern portion of Lot 40 of Ward 8, Sheet 6, shown on the Buncombe County Tax maps (Swannanoa River Road) from R-2 Residential District to LI Light Industrial. The Asheville Planning and Zoning Commission on August 8, 1990, reviewed and recommended approval of rezoning a part of the southeastern portion of Lot 40 of Ward 8, Sheet 6 as shown on the Buncombe County tax maps (Swannanoa River Road) from R-2 Residential District to LI Light Industrial.

Mrs. Alberice reviewed the surrounding zoning and current property uses. She said the rezoning is appropriate for the Comprehensive Plan for the City. She said the Planning and Zoning Commission received three comments from surrounding property owners; one of general interest and the other two were concerned about increased traffic in the Kenilworth area. She said she felt these concerns were addressed during the Planning and Zoning Commission public hearing.

Mayor Michalove closed the public hearing at 4:25 p.m.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Vice-Mayor Moore moved for the adoption of Ordinance No. 1869. This motion was seconded by Councilman Frank.

On a roll call vote of 7-0, Ordinance No. 1869 passed on first reading.

B. **Public hearing relative to Aberdeen Meadows Site Plan.**

Mayor Michalove opened the public hearing at 4:27 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Gerald Green, from the Planning Department, said the Asheville Planning and Zoning Commission on September 5, 1990, reviewed and approved the site plan with one contingency.

1. The project site is designated as flood hazard area. In order to develop the project as proposed, revisions to the mapped flood elevations will be required.

Mr. Green said Mr. and Mrs. J. Stanley Crum are proposing the development of 20 two-bedroom apartments on the 3.29 acre site located at the intersection of Beaverdam Road and Killian Road. The entrance to the project will be off Killian Road approximately 60 feet from its intersection with Beaverdam Road. Heavy landscaping is proposed to screen the project from the neighboring residential property and from Beaverdam Road.

He said several issues regarding the project site were considered by the Planning staff and the Commission in reviewing this group development request:

1. The project site is designated as a flood hazard area. In order to develop the project as proposed, revisions to the mapped flood elevations will be required. Developers have petitioned FEMA for this revision.

2. Traffic on Beaverdam Road is at capacity for C level of service (medium level of safety and convenience). Additional traffic on the road will compromise the safety of travel on Beaverdam Road.

3. The sewer line serving the project site is at capacity and suffers from heavy levels of infiltration. Replacement of the sewer line is scheduled for the 1991-1992 fiscal year.

Mr. Green said approval has been given for water and sewer and fire protection.

He said a petition was received in opposition to the project containing approximately 200 signatures. He said the petition expressed sewer and traffic problems as their main objection.

A lengthy discussion was held relative to the need for a new sewer line in the area and heavy traffic in the Beaverdam area due to the many multifamily units in Beaverdam.

Sally Crum, proposed developer, said the project would compliment the community and it has been determined that this area is in need of rental units.

Bill Stamey, 21 Killian Road, spoke in opposition to the project. He said he was not opposed to the development but felt there should be no more new developments in the area until a new sewer line is installed. He also cited traffic and water pressure as problems in the area.

Stanley Masters, Killian Road, spoke in opposition to the project due to sewer problems.

Lisa Toland, Sycamore Road, spoke in opposition due to the existing traffic conditions on Beaverdam Road.

Jack Crum, developer, said they feel confident with the project and have reviewed all the concerns carefully. He said their project would comply with all requirements.

John Broadbooks, Landscape Architect for the project, said the developers have spent a considerable amount of money on the project and the project has been through many reviews by various committees and the Planning and Zoning Commission.

Jan Weigman, Architect for the project, appealed to Council to approve the project.

Upon inquiry of Council, Harold Huff, Director of Water and Sewer Services, said it is his understanding that MSD has scheduled the installation of a new sewer line in the area in the spring of 1991. He said MSD has given their approval for this project.

Mayor Michalove closed the public hearing at 5:24 p.m.

Councilman Estes moved to approve the site plan for the Aberdeen Meadows as recommended by the Planning and Zoning Commission; further that a letter be requested from MSD giving a firm commitment to install a sewer line in the area with a projected completion schedule and that the City staff conduct a study on traffic accidents in the area to include a recommendation to improve traffic problems on Beaverdam Road. This motion was seconded by Councilman Ellison.

George Jensen, Project Engineer, said the sewer from this project would not e a problem since it is only domestic. He said the main problem with the sewer in the area is caused from water infiltration into the sewer line.

Councilman Bratton made a substitute motion to postpone action on the Aberdeen Meadows until October 2, 1990 giving the city staff an opportunity to obtain a firm commitment from MSD on the sewer line and until a traffic study is made. This motion was seconded by Vice-Mayor Moore, which motion failed on a voice vote of 3-4 with Vice-Mayor Moore, Councilman Frank and Councilman Bratton voting "yes."

On a voice vote of 4-3, Councilman Estes's motion was approved with Vice-Mayor Moore, Councilman Frank, and Councilman Bratton voting "no."

C. Public hearing relative to Transit Operating Assistance Grant for FY 91.

Resolution No. 90-138 - Resolution authorizing the filing of an application with the Department of Transportation, United States of America, for a grant under the Urban Mass Transportation Act of 1964, as amended

Mayor Michalove opened the public hearing at 5:54 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Carl Owenby, from the Planning Department, said this is an application for an annual operating assistance grant for transit operations under Section 9 of the UMTA of 1964.

He said the project will be for the period of July 1, 1990 through June 30, 1991, for the purpose of assisting with the operation of the Asheville Transit Authority.

He said the project will take into consideration the social needs of the elderly and handicapped by providing half-fare rates for those persons 65 years or older and those who are handicapped.

Mayor Michalove closed the public hearing at 5:57 p.m.

Mayor Michalove said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Bratton, seconded by Councilman Price, Resolution No. 90-138 was unanimously approved.

Resolution Book No. 18 - Page 224 - 225

III. OLD BUSINESS:

A. **Resolution No. 90-139 - Resolution authorizing the North Carolina Department of Transportation to dead end Academy and Center Street at their intersection with Hendersonville Road.**

Mayor Michalove said the North Carolina Department of Transportation designs for improvements to Hendersonville Road would result in excessive grades and additional right-of-way to connect Academy Street and Center Street to the new roadway. Dead ending each of these streets will eliminate the excessive grades and additional right-of-way acquisition and still provide access to Hendersonville Road via Yorkshire and Fairview Streets.

Assistant City Manager Charles Penny reviewed the following report relative to dead-ending of Center Street:

"MEMORANDUM TO: Mayor Michalove and Members of City Council

FROM: Charles W. Penny, Assistant City Manager

DATE: September 21, 1990

SUBJECT: Dead-ending of Center Street

Four weeks ago City Council considered dead-ending Center Street as a part of the Hendersonville Road Project and decided to delay a decision on this action pending the resolution of two (2) concerns. One concern was the installation of a turn around on Center Street and the other was the placement of a traffic light at the intersection of Old West Chapel Road and Hendersonville Road.

Attached is a letter from Division Engineer, Gene Edmonds, in reference to the turn around on Center Street. City Council asked that the State consider placing the turn around or a driveway on a piece of property located behind the old Ingle's grocery store. The State considered this request and the attached letter indicates the appraisers would not recommend the use of that property due to the amount of right-of-way that is being taken from the front of the Ingle's property. The appraisers are concerned that "the highway right-of-way along the Ingle property frontage does not leave a desirable after value but the remaining area would be usable." The State recommends installation of the cul-de-sac as originally submitted.

The State did conduct the traffic count on Old West Chapel and Hendersonville Road. Traffic counts were also taken on Academy and Center Streets and based on information received from the counts the State could not justify the placement of a light at Old West Chapel and Hendersonville Road at a speed of 35 mph. I was contacted by Gene Edmonds on Wednesday and informed that if the City would agree to increase the speed limit on Hendersonville Road upon completion of the project to 45 mph a traffic light would be installed at the intersection of Old West Chapel and Hendersonville Road. The traffic light would be included as a part of the project. The City's Traffic Engineering Division recommends that the speed be increased to 45 miles per hour once the project is completed. The design speed of Hendersonville Road will be 50 mph. If City Council is agreeable to setting the speed limit at 45 mph, staff will need to submit a letter to the North Carolina Department of Transportation stating that the City concurs with the request to set the speed limit at 45 mph and the traffic light can then be included as part of the Hendersonville Road project.

If you have any further questions or concerns, please do not hesitate to contact me."

Gene Edmonds, with the North Carolina Department of Transportation, said a speed limit of 35 mph on a five lane highway is impossible to enforce.

Mayor Michalove said the resolution was previously presented to members of Council and it will not be read in its entirety.

Councilman Price moved to amend Resolution No. 90-139 by deleting the second section in the resolved provisions of the resolution which states "The plans for project No. 8.1841602 Sheet No. 6 and Sheet No. 8 be revised to show a tee type turn around suitable to the City at the dead end of Academy Street and Center Street." This motion was seconded by Councilman Ellison and carried unanimously.

Councilman Bratton then moved to adopt Resolution No. 90-139 as amended. This motion was seconded by Councilman Frank and carried unanimously.

Resolution Book No. 18 - Page 226

IV. NEW BUSINESS:

A. An Ordinance amending Chapter 18 with respect to offenses and miscellaneous provisions (Loitering for the purpose of Drug Activity).

Police Chief Gerald Beavers said the City of Greensboro, the City of Fayetteville, and the City of Winston-Salem have adopted ordinances to enforce "Loitering for the purpose of Drug Activity". He said these ordinances have been challenged in the courts and several clauses held invalid by the courts, but the major portion has survived. He said this ordinance is desperately needed to allow the Asheville Police Department to better control Asheville drug activity and to stop the loitering and lingering necessary to actively participate in drug related activity.

After discussion relative to the constitutionality of the ordinance, it was decided to postpone action on the ordinance until an opinion is obtained from the Attorney General's office on the constitutionality of the ordinance.

V. CONSENT:

A. Scheduling public hearing relative to zoning ordinance amendment addressing concrete runways for mobile homes in mobile home parks for October 9, 1990.

SUMMARY: The Asheville Planning and Zoning Commission on September 5, 1990 reviewed and recommended

approval of the ordinance amendment addressing concrete runways for mobile homes in mobile home parks.

B. **Resolution No. 90-140 - Resolution renewing option to purchase land for a fire station relocation for the west annexation area.**

SUMMARY: This is an additional 3-month option to purchase land for a station relocation. Part of the monthly remittance ($500.00) will go towards the purchase price. Total monthly payment will be $1,200.00.

Resolution Book No. 18 - Page 227

C. **Resolution No. 90-141 - Resolution authorizing the City Manager to sign an agreement providing for delivery of fire protection services to the Veteran's Administration Medical Center at Oteen through December 31, 1990.**

SUMMARY: The current contract will expire on October 1, 1990. The Veterans Administration has had a fire protection contract with the City for several years. The additional 3 months will allow time for the Veterans Administration and Fire Department staffs to renegotiate the contract.

Resolution Book No. 18 - Page 228

D. **Resolution No. 90-142 - Resolution awarding engineering services contract Phase 3 (1988 - 89) Street and Sidewalk Improvements to Vaughn and Melton Engineers.**

SUMMARY: This engineering contract will provide for the construction specifications and drawings to rehabilitate Patton Avenue from Meeker Motors to Biltmore Avenue.

Resolution Book No. 18 - Page 229

E. **Resolution No. 90-143 - Resolution authorizing the Mayor to execute on behalf of the City of Asheville a Federal Aviation Grant Agreement, Project No. 3-37-0005-12.**

SUMMARY: The Federal Aviation Administration has offered a grant to the Asheville Regional Airport Authority in the amount of $283,000 for "Runway Centerline Lighting Project". The FAA requires that all sponsors execute the grant agreements. This resolution will authorize the Mayor to execute the Grant Agreement.

Resolution Book No. 18 - Page 230

F. Resolution No. 90-144 - Resolution authorizing the Mayor to execute a grant agreement from North Carolina Humanities for an Urban Trail Grant.

SUMMARY: The City has taken the lead in organizing 9 organizations in developing a concept for an Urban Trail Project. The trail would be in the core area of the downtown and tell of the social, political, cultural and architectural history of Asheville - an experimental, local history museum. The grant would provide a consultant to design the direction of historical research and an oral history component.

Resolution Book No. 18 - Page 231

Upon motion of Vice-Mayor Moore, seconded by Councilman Bratton, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

A. Petition - Killian Road - Resurfacing

Mayor Michalove reported that he had received a petition from the residents of Killian Road for resurfacing.

B. Claims - Barry Carlisle (Water) - Cheryl Andrews (Water) - Bennie Lake (Water) - Charles West (Streets) - Glenn Tucker (Streets) - Southern Bell (Water) - Scott McKinley (Inspections) - Eliza Brewer (Water) - Chuck Gary (Water)

Lawsuit - Florence Brummer and Harry Brummer (Alleged abuse of power for failure to reissue zoning and building permits)

Claims were submitted from Barry Carlisle, Cheryl Andrews, Bennie Lake, Charles West, Glenn Tucker, Southern Bell, Scott McKinley, Eliza Brewer, and Chuck Gary.

The City was served with a lawsuit on September 19, 1990 involving Florence Brummer and Harry Brummer (alleged abuse of power for failure to reissue zoning and building permits).

The claims have been referred to the appropriate insurers for investigation. The lawsuit has been referred to the appropriate legal counsel for action.

C. Lawsuits - Harry Brummer

Mayor Michalove moved that the City Attorney be instructed to take whatever legal action is necessary against Harry Brummer for frivolous lawsuits taken out against the City of Asheville. This motion was seconded by Councilman Price and carried unanimously.

D. **Resolution No. 90-145 - Resolution authorizing execution of subordination agreements regarding the Pack Plaza Project**

The City Attorney presented a resolution authorizing execution of subordination agreements regarding the Pack Plaza Project. He said this resolution is a housecleaning resolution that clarifies priorities in the Project.

Upon motion of Councilman Price, seconded by Councilman Ellison, Resolution No. 90-145 was unanimously adopted.

Resolution Book No. 18 - Page 232

E. **Letter - NCDOT - Speed Limit on Hendersonville Road**

Councilman Ellison moved to authorize the City Manager to forward a letter to the North Carolina Department of Transportation stating that the City concurs with the request to set the speed limit at 45 mph on Hendersonville Road. This motion was seconded by Councilman Bratton and carried unanimously.

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 6:52 p.m.

H. Lee Michalove
MAYOR

William F. Wolcott
CITY CLERK

Tuesday - October 2, 1990 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilmen Mary Lloyd Frank and Norma T. Price - Out of Town

INVOCATION

The invocation was given by Councilman Bratton.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the minutes of the September 25, 1990 meeting as submitted.

I. PROCLAMATIONS:

A. Proclamation - Asheville School Day - October 6, 1990.

Councilman Bratton read a proclamation proclaiming October 6, 1990 as "Asheville School Day." She presented the proclamation to John L. Tyrer, Headmaster of Asheville School.

B. Resolution No. 90-146 - Resolution of Appreciation to Carl Johnson.

Mayor Michalove read the resolution and presented it to Carl Johnson.

Mayor Michalove thanked Mr. Johnson for the many years of dedicated and untiring service to the citizens of Asheville and for his commitment to bring about a better standard of life for the people of our community.

Councilman Bratton thanked Mr. Johnson for what he had done for her and said he would have lots of other things to say in appreciation for his contributions to the poor of the City of Asheville at the special program for him on Thursday night.

Councilman Ellison said he had known Mr. Johnson all of his life. He said Mr. Johnson had devoted his entire lifetime to efforts for the poor so that they now have a voice in the system.

Upon motion of Councilman Bratton, seconded by Councilman Estes, Resolution No. 90-146 was unanimously adopted.

Resolution Book No. 18, Page 233

B. Presentation to City Manager Intern.

City Manager Doug Bean presented a Certificate of Achievement to Mike Holcombe, who had just completed the City Manager Intern Program. He said one of the major projects Mike had done during his internship was the Mid-Year City Council Retreat. He said Mike had just completed a follow-up report on the Retreat, which would be distributed to Council at a later time.

C. Staff Report on Vladikavkaz, Russia Trip - Sister City Program.

Mayor Michalove recognized Gerald Green, Senior Planner.

Mr. Green said 19 citizens visited Vladikavkaz, Asheville's Sister City, in the Soviet Union September 11-17, three of whom were official City representatives. He said the official delegation was Carol Alberice, Urban Planner II, John Barber, Director of Communication with the Chamber of Commerce, and himself.

Mr. Green said the cultural differences were overcome by the friendliness of the Russian people. He described the City of Vladikavkaz, its economics, agriculture, educational and cultural opportunities, and park/greenspace development. He said from their time of arrival to their departure, the group was treated as distinguished guests, with open arms and hearts, by the Russian people. He said they were taken into the homes as fellow citizens of the world promoting peace and a better world.

Carol Alberice, Urban Planner II, credited Kitty Boniske for making the trip to Russia possible. She said Mrs. Boniske had paved the way by laying the groundwork for the Sister City Program. She read the following Declaration that had been signed on September 15, 1990, by between The City Council of The Peoples' Deputies of Vladikavkaz and The City Council of Asheville. She said she, Gerald Green, and John Barber had signed on behalf of the Asheville City Council.

Sister Cities

DECLARATION

between The City Council of The Peoples' Deputies of Vladikavkaz and The City Council of Asheville

On September 12, 1990, there was a meeting between representatives of Vladikavkaz and Asheville. We agreed

that further contacts between the people of our cities would benefit us all, especially through the development of economic, scientific, political, and cultural ties. We believe that our cities will develop long-term cooperation and declare ourselves to be Sister Cities. As Sister Cities we agree:

1. To concentrate our joint efforts on the development of economic links in all possible ways in order to expand social, political, and cultural relations, especially defining ways to train our managers in the skills of international business.

2. To create the necessary conditions for the mutual study of our respective experience in the management of economic, political, and other processes in our cities through the exchange of delegations and short-term apprenticeships for our city employees.

3. To study and assist the improvement of our educational systems through the exchange of school children, students, and teachers from our schools and universities.

4. To help each other learn about the technologies available for the production of agricultural products by our farmers.

5. To develop tourism between our cities on a free currency basis, whenever possible, and to encourage citizens of both our cities to visit each other as much as possible.

6. To exchange delegations of artists, historians, archaeologists, scientists, musicians, doctors, sportsmen, and other individuals in order to develop a broader understanding and deeper appreciation of each other among our citizens.

7. To develop joint mutual aid programs for environmental protection and the rational use of our natural resources.

8. To arrange cultural, educational, agricultural, and industrial exhibitions and to publicize them to our citizens.

9. To create the necessary conditions for our citizens to visit our cities for rest, tourism, education, and to become more familiar with our respective cultures, histories, customs, and traditions.

10. To have exchanges between groups of women interested in learning how our cities work with women's concerns and to encourage the sharing of information that might benefit each other.

Representatives of the Sisters Cities Vladikavkaz and Asheville signed this agreement and expressed their hopes that The City Council of Vladikavkaz and The City Council of Asheville, as well as all the citizens of our cities, will sincerely support this relationship between our cities, work to strengthen the friendship between our people, and establish mutually beneficial relations. Obviously, one of our goals in establishing this Sister Cities relationship is the promotion of world peace.

This Agreement was signed in Vladikavkaz, the capital of The North Ossetian Autonomic Soviet Socialist Republic, on September 15, 1990.

On behalf of the Presidium of City Council of Peoples' Deputies, The Chairman of Vladikavkaz

s/Laisa B. Habitzova
(Seal)

s/Michail Shatalov
(Seal)

On behalf of the Mayor of Asheville (State of North Carolina, USA)

s/Carol Pennell Alberice

s/John F. Barber

s/Gerald Green

Gerald Green presented Mayor Michalove with a dagger, which had been sent to him as a gift from Michail Shatalov.

Mr. John Barber said the trip to Russia had been an experience of a lifetime for him. He said the group would continue future involvement by meeting on a regular basis to plan a return visit to Russia in the Spring of 1991. He said the purpose of the return trip would be to show the City of Asheville to the citizens of Russia.

Frank Di Bello said he was treated so royally and there were tears in his eyes and the people of Russia upon the groups departure. He said he hoped that we would be able to show the Russian people the same kind of hospitality they had received from them.

Rosa Lee Di Bello proudly showed off a stuffed elephant she said the kindergarten children had made and given her. She said all of the people were real special and were eager to meet the group.

Carroll Hughes said the trip to Russia had been an opportunity of a lifetime and was different from any other trip he had ever taken. He said the trip had made a profound difference in his life and showed a pin that had been given to him by the Chief of the Union of Architects.

Fran Jones said words couldn't adequately express her feelings of this personal experience. She said the work should go on to expand our relationship with our new Sister City, Vladikavkaz.

Dr. Bill Palich said the trip has had a great impact on his life. From the moment he stepped off the plane in Vladikavkaz and the Vice Mayor hugged him and said "Welcome to my home", he said fraternal feelings were experienced and reexperienced. He said he was left with a "feeling of compulsion" that we have to do something.

Robert Russell said he had a wonderful experience. He said he hoped all of the City Council Members would have an opportunity to go to Vladikavkaz.

Betty Zeluff showed a stuffed duck that had been made and given to her by the kindergarten children. She said she had visited a "Museum for Childrens' Art" and that there are only four of these museums in the world. She said she hopes the people of Asheville will rejoice at having the delegation from Vladikavkaz in Asheville as they did during their visit.

Mary Kay Pierce said the trip had changed her life, and that the people of Vladikavkaz had treated her like a long, lost relative. She said they had been treated like royalty.

Virginia Liles said it had been a warm and friendly visit. She thanked Council for endorsing the Sister City Program and the preparation and work necessary to prepare for the delegation from Vladikavkaz to visit Asheville.

Sue Levine, resident of Haywood County, said she had gone on the trip because of her involvement and work with Peace Links. She said on October 7th several hundred peace lanterns will float in the fountain on Pack Square. She said these would be sent to schools in Russia by our school children, and it is hoped that this will develop into pen pals in the schools.

Laurey Masterton, coordinator of the trip, showed two cookbooks that had been given to her by the head cook of a restaurant where she had been taken to dine. She said prior to making the trip to Vladikavkaz, everybody had prepared a short biography of what their interests were. She said after presenting this list in the morning, many of their counterparts were at the meeting in the afternoon and sought each individual out. She said the trip and all of this was made possible by the 5 years of work by Kitty Boniske.

Mayor Michalove said Kitty Boniske was instrumental in the Sister Cities Program commending her groundwork for the program. He thanked Carol Alberice, Gerald Green, and John Barber for assuming official roles of the City

Council. He said he appreciated all of the individuals taking time from their jobs at their own personal expense to make the trip and for coming to today's meeting tell Council of their experiences.

Members of Council expressed their appreciation and admiration to the group for making the trip, their efforts to promote the Sister City Program, and for their individual endeavors to bridge cultures to bring about this relationship.

D. **Proclamation - Thomas Wolfe Festival Week - October 3-10, 1990.**

Mayor Michalove read a proclamation proclaiming October 3-10, 1990 as "Thomas Wolfe Festival" week.

II. PUBLIC HEARINGS:

III. OLD BUSINESS:

A. **Ordinance No. 1869 - Second reading of an ordinance rezoning property on Swannanoa River Road for Gold Dot Foods.**

Mayor Michalove said the Petitioner would like to rezone a part of the southeastern portion of Lot 40 of Ward 8, Sheet 6, shown on the Buncombe County Tax maps (Swannanoa River Road) from R-2 Residential District to LI Light Industrial District. He said the Asheville Planning and Zoning Commission on August 8, 1990, reviewed and recommended approval of rezoning a part of the southeastern portion of Lot 40 of Ward 8, Sheet 6 as shown on the Buncombe County tax maps (Swannanoa River Road) from R-2 Residential District to LI Light Industrial District. He said a public hearing on the rezoning request and the first reading of the ordinance was held on September 25, 1990.

Carol Alberice said she had met with John Cram, adjacent property owner, and went over all the information with him. She said he does not have any objections to rezoning request.

Mayor Michalove said the ordinance was previously read on first reading and would not be reread unless there was a specific request to do so.

On a roll call vote of 5-0, Ordinance No. 1869 passed on second reading.

C. Resolution No. 90-147 - Resolution authorizing the City Manager to accept a facade easement for the former Globe Furniture Building on Broadway Avenue.

Mayor Michalove said after a fire destroyed the Globe Furniture building, the building was demolished except for the facade. Negotiations have taken place with the

current owner to obtain an easement to insure the facade will be retained. In exchange for this easement, the owner requires that the City pay for the stabilization costs. The retention of the facade would assist in salvaging some of the urban character on Broadway.

City Manager Doug Bean said private funds are in place for the stabilization work, and this is the final document needed. He said the work would begin in about two weeks. He said the question had been raised about the condition of the 32 Broadway. He said a building permit had been obtained for work to be done to the building. However, he said, they think they've found some asbestos and its removal will require a State permit. He re-confirmed that the City's funding of the work is limited to $3,500.

Mayor Michalove said copies of the resolution had previously been distributed to Members of Council, and the resolution would not be read unless there was a specific request to do so.

Upon motion of Councilman Ellison, seconded by Vice Mayor Moore, Resolution No. 90-147 was unanimously adopted.

Resolution Book No. 18, Page 235

IV. NEW BUSINESS:

A. Resolution No. 90-148 - Resolution supporting the community's efforts to preserve and utilize the Biltmore School.

Mayor Michalove said this resolution supports the community's efforts to preserve and utilize the Biltmore School buildings, fields, gym, and landscape. Further, the City Council requests that the Board of Education work with the City/County Task Force established to protect and utilize the Biltmore School Campus.

Mayor Michalove said copies of the resolution had previously been distributed to Members of Council, and the resolution would not be read unless there was a specific request to do so.

Upon motion of Councilman Estes, seconded by Vice Mayor Moore, Resolution No. 90-148 was unanimously adopted.

Resolution Book No. 18, Page 236 & 237

B. Resolution No. 90-149 - Resolution directing the City Clerk to investigate a petition under G. S. 160A-31 to annex a contiguous area on Richmond Hill Drive known as the Richmond Hill Inn and Conference Center.

Mayor Michalove said G.S. 160A-31, as amended, requires the City Council to instruct the City Clerk to investigate the validity of a petition for a contiguous annexation. He said the property is the site of the Richmond Hill Inn and Conference Center.

Mayor Michalove said copies of the resolution had previously been distributed to Members of Council, and the resolution would not be read unless there was a specific request to do so.

Upon motion of Councilman Ellison, seconded by Councilman Estes, Resolution No. 90-149 was unanimously adopted.

Resolution Book No. 18, Page 238

V. CONSENT:

A. Announcement of cancellation of Council meeting for October 23, 1990.

Mayor Michalove announced that the City Council Meeting scheduled for October 23, 1990, had been cancelled due to Members of Council attending the North Carolina League of Municipalities Convention in Winston-Salem on October 21-23, 1990.

VI. OTHER BUSINESS:

A. Claims - William M. Wilson (Water), Harry Brummer (Inspections), Wanda J. Fulbright (Fire), James Valentine, Sr. (Sanitation), Brenda Henderson (Police), Virginia Sudderth (Water), Katherine Soderquist (Sanitation), Carolyn Border (Water), and Tosha Meka Mills (Parks)

The City Manager presented claims received from William M. Wilson (Water), Harry Brummer (Inspections), Wanda J. Fulbright (Fire), James Valentine, Sr. (Sanitation), Brenda Henderson (Police), Virginia Sudderth (Water), Katherine Soderquist (Sanitation), Carolyn Border (Water), and Tosha Meka Mills (Parks).

Mayor Michalove said these claims have been referred to the appropriate insurers for investigation.

B. Schedule Public Hearing - Appeal of Planning and Zoning Commission Decision to Rezone Ward 1, Sheet 8, Lot 31-1/2 from R3 Residential District to OI Office Institutional District - Petitioner Memorial Mission Hospital (Old Newton School Property).

City Clerk William F. Wolcott said he had received an Appeal of Planning and Zoning Commission Decision to Rezone Ward 1, Sheet 8, Lot 31-1/2 from R3 Residential District to OI Office Institutional District - Petitioner Memorial Mission Hospital (Old Newton School Property).

Councilman Ellison moved to schedule a public hearing on the rezoning request for October 30, 1990. This motion was seconded by Councilman Bratton and carried unanimously.

VII. ADJOURNMENT:

Mayor Michalove adjourned the meeting at 5:15 P.M.

K.M. Michalove
MAYOR

William F. Wolcott
CITY CLERK

Tuesday - October 9, 1990 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Mary Lloyd Frank and Norma T. Price (Out of Town)

INVOCATION

The invocation was given by Councilman Estes.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the minutes of the October 2, 1990 meeting as submitted.

INTRODUCTION - CITY MANAGER INTERN

City Manager Doug Bean introduced Nancy Farmer, the new City Manager Intern for the next three months. He said Ms. Farmer is employed as a Shift Supervisor in the Telecommunications Division of the Asheville Police Department. Mr. Bean said Ms. Farmer is currently working on a Bachelor's Degree at UNC-A.

INTRODUCTION - STUDENT REPRESENTATIVE PROGRAM

Assistant City Manager Charles Penny introduced Scott Stevens. He said Scott is a senior at Asheville High School and has been chosen as a student representative from Asheville High School and will attend the Council Meetings for the next four weeks. He said Scott is the son of John and Cissi Stevens.

I. PROCLAMATIONS:

A. Presentation of Certificate of Achievement for Excellence in Financial Reporting.

Mayor Michalove recognized Besty Wilson, Finance Director of Lenoir and North Carolina State Representative to the Government Finance Officers Association of the United States and Canada.

Ms. Wilson said the Certificate of Achievement for Excellence in Financial Reporting Award is being presented

to the City of Asheville by the Government Finance Officers Association of the United States and Canada for the 1989 Comprehensive Annual Financial Report (CAFR). She said the award is a tribute to the elected officials of the City of Asheville and reflects the highest form of recognition in the field of governmental accounting. Ms. Wilson said this award is also used by bond agencies when they assess and rate the financial condition of cities. She said only 151 awards were made nationwide, and that 49 of these were to Counties and Cities in North Carolina. Ms. Wilson presented the award to Larry Fisher, Finance Director.

Mr. Fisher said this is the 10th year the City has received this award. He introduced Charlotte Tell, City Accountant. He said Ms. Tell is retiring next May, and this is the last award she will be here to receive.

Charlotte Tell introduced Pat Lecky, Assistant City Accountant; Joe Elkins, Accountant Senior; and Dottie Lawing, Accountant. She said the production of the CAFR was a team effort that could not have been done without these staff members and the cooperation of other departments.

Mayor Michalove said the desire for quality is something the City forces itself to do. He commended Mr. Fisher and the staff of the Accounting Division for the dedication and hard work they put forth each year in an effort to achieve the award.

II. PUBLIC HEARINGS:

A. **Public hearing relative to amending Chapter 30 of the Code of Ordinances of the City of Asheville (deleting requirements for concrete runways for mobile homes in Mobile Home Parks) - Ordinance No. 1870.**

Mayor Michalove opened the public hearing at 4:22 P.M.

The City Clerk presented the notice to the public and the affidavit of publication.

Gerald Green said this is a wording amendment to the Zoning Ordinance to delete the requirement for concrete runways for mobile homes in mobile home parks. He said the amendment would apply retroactively to existing mobile home parks as well as those developed in the future. He said this ordinance will repeal Section 30-3-16 (B) (2) (m) in its entirety and a new Section 30-3-16 will be substituted in lieu thereof as follows:

2. Development Standards.

(m) Each mobile home shall be erected or located on a permanently constructed stand of the characteristics as given in the following:

1. The location of each mobile home shall be at such elevation, distance and angle in relation to the parking bay and the adjacent access drive that placement and removal of the mobile home is practical by means of customary moving equipment.

2. Each mobile home stand shall be situated no nearer than twenty (20) feet from any other stand and no nearer than twenty (20) feet to any driveway which provides common circulation to mobile home sites within the park.

3. No mobile home stand shall be located with direct access to a public street.

The Mayor closed the public hearing at 4:27 P.M.

Mayor Michalove said this copies of this ordinance were previously presented to members of City Council, and the ordinance would not be read in its entirety.

Councilman Bratton moved for the adoption of Ordinance No. 1870. This motion was seconded by Vice Mayor Moore.

On a roll call vote of 5-0, Ordinance No. 1870 passed on first reading.

Councilman Ellison moved to suspend the rules and proceed to the second reading of Ordinance No. 1870. This motion was seconded by Vice Mayor Moore and carried unanimously.

On a roll call vote of 5-0, Ordinance No. 1870 passed on second reading.

Councilman Ellison moved to suspend the rules and proceed to the third reading of Ordinance No. 1870. This motion was seconded by Vice Mayor Moore and carried unanimously.

On a roll call vote of 5-0, Ordinance No. 1870 passed on third and final reading.

Ordinance Book No. 12, Page 265

III. OLD BUSINESS:

A. Ordinance No. 1869 - Third reading of an ordinance rezoning property on Swannanoa River Road for Gold Dot Foods.

Mayor Michalove said Gold Dot Foods, the Petitioner, would like to rezone a part of the southeastern portion of Lot 40 of Ward 8, Sheet 6, shown on the Buncombe County Tax maps (Swannanoa River Road) from R-2 Residential District to LI

Light Industrial. He said the Asheville Planning and Zoning Commission on August 8, 1990, reviewed and recommended approval of rezoning a part of the southeastern portion of Lot 40 of Ward 8, Sheet 6 as shown on the Buncombe County tax maps (Swannanoa River Road) from R-2 Residential District to LI Light Industrial. He said this ordinance was read on first reading on September 25, 1990, and on second reading on October 2, 1990.

Mayor Michalove said this ordinance was previously read on first and second readings and would not be read in its entirety unless there was a specific request to do so.

On a roll call vote of 5-0, Ordinance No. 1869 passed on third and final reading.

Ordinance Book No. 12, Pages 262-264

B. Resolution No. 90-150 - Resolution approving the Report for the annexation of an area known as the West Area.

Mayor Michalove said N.C. Gen. Stat. 160A-49(c) requires the City Council to approve the Report of Major Municipal Services to be extended to the West area proposed for annexation 30 days prior to the public hearing. He said the public hearing to consider the annexation of the West area is scheduled for November 13, 1990.

Patty Tallerday, Senior Planner, by use of a map pointed the boundaries of the proposed annexation. She said the territory to be annexed meets the standards of N. C. General Statutes 160A-48, which defines the character of the area to be annexed.

Ms. Tallerday reviewed services for Police and Fire protection, solid waste collection, street maintenance, street lighting and signage, traffic control, transit services, and water and sewer services contained in the "Plan for the Extension of Major Municipal Services." She said major City services will be provided to persons living within the annexation area the same as those that are being provided within the rest of the City.

Ms. Tallerday said the area proposed for annexation includes an area within the Enka-Candler Fire Service District. She said a rural fire department may request that the City make a good faith offer to negotiate a 5-year contract with the rural fire department to provide fire protection to the area. She said a written request to negotiate a 5-year contract was submitted to the City Clerk on September 25, 1990, signed by S. S. Haney, Chief, Enka-Candler Fire and Rescue Department, Inc. She said the City is prepared to make a good faith offer to negotiate a 5-year contract, and in the event a contract is entered into,

fire protection service to the annexation area will be provided by both the Enka-Candler Fire and Rescue Department, Inc., and the City of Asheville. She said Station 6 will be relocated from its present location at 970 Haywood Road to a location on the Smoky Park Highway Corridor to provide fire protection service to the area

Ms. Tallerday said one (1) private solid waste collection firm is presently providing services in the area proposed for annexation. She said this company may make a written request if it wishes to contract to continue providing services to the proposed annexation area. She said the request must be signed by an officer or owner of the firm and delivered to the City Clerk at least 10 days before the public hearing. She said the City may either contract with the private firm to provide collection services in the area to be annexed for a period of two years or may pay to the private firm, in lieu of a contract, a sum equal to the "economic loss" as defined by General Statute. She said the level of service will be performed on the same basis and in the same manner as is already being provided in the City.

Ms. Tallerday said the proposed West annexation area is being served by an 18-inch water line along Sand Hill Road, a 12-inch water line along Monte Vista, Moody Avenue, and Highway 19/23, and a 6-inch water line along Asbury Road and Highway 19/23. She said adjacent streets are served primarily with existing 6-inch and 2-inch water lines. She said improvements to the West area will include 22,385 linear feet of 6-inch or 8-inch water lines along Grandview Road, Selwyn Road, Acton Circle, Acton Woods Circle, Holcombe Road, Edgewood Road, Old Haywood Road, Knoll Ridge Road, and U.S. 19/23. Ms. Tallerday said the total cost for water line improvements will be approximately $1,143,400, which will be funded by the Water Capital Improvement Fund.

Ms. Tallerday said the West annexation area is served by the 27-inch Hominy Creek Interceptor (serving the BASF Plant) and the 18-inch Ragsdale Creek Interceptor. She said the majority of this area is served by 8-inch collection sewers. She said an additional 29,160 feet of 8-inch sewer line improvements will be needed to adequately serve the area. She said the majority of new lines will be constructed along Monte Vista Road, Acton Circle, and Acton Woods Road west of U.S. 19/23, along Pritchard Drive, Mayfair Drive, and Crestwood Lane in the western area, and along Sand Hill Road and Gudger Road in the southeastern area.

Ms. Tallerday said sewer lines will be extended in accordance with the Sewer Consolidation Agreement dated November 21, 1989, entered into by and between the City of

Asheville and the Metropolitan Sewerage District (MSD). She said this agreement provides that City shall fund 65% of the cost of construction and MSD 35% of those costs. She said the total costs of improvements are approximately $1,420,990, which will be funded pursuant to the Sewer Consolidation Agreement.

In addition, Ms. Tallerday said a separate agreement of the same date was entered into between the MSD and the Enka-Candler Water and Sewer District. She said these two agreements provide that the MSD shall pay the principal of and interest on a sanitary sewer bond issued by the Enka-Candler Water and Sewer District (ECWSD) from the Farmers Home Administration in the amount of $1,451,000 as of June 30, 1989. She said the Sewer Consolidation Agreement further provides that the City is obligated to reimburse the MSD for a portion of each payment of principal and interest on the Bond to be made by MSD. She said the reimbursement is in proportion to the linear feet of ECWSD lines lying within the corporate limits of the City of Asheville as a result of the annexation.

Ms. Tallerday said the first year estimated cost of street, street lighting, traffic, solid waste, and police and fire services to the area would be $987,128. She said $535,371 of this amount is for one-time capital expenses. She said annual estimated revenues are $830,078.

Upon inquiry of Councilman Estes, City Manager Doug Bean said the City is obligated to have water lines and hydrants available within two years of the effective date of annexation. He said this should make homeowners in the area eligible for a new fire insurance rate at lower premiums.

Mr. Tom Plemmons, resident of proposed annexation area, requested a map showing land use of each lot and also a map showing streets that the City intends to pave or improve. Ms. Tallerday said she would provide the land use and street information to Mr. Plemmons.

Mayor Michalove said members of Council were previously furnished copies of the resolution, and it would not be read in its entirety.

City Attorney William F. Slawter, responding to Councilman Ellison, said the effect of today's resolution is another step in the annexation procedure set forth in the General Statutes, which requires the City Council to adopt the Plan of Services 30 days prior to the public hearing so it is available for public review. He said the public hearing is scheduled for November 13, 1990.

(A COPY OF THE REPORT OF PLANS FOR EXTENSION OF CITY SERVICES IS AVAILABLE TO THE PUBLIC IN THE OFFICE OF THE CITY CLERK)

Ms. Tallerday confirmed that the location of the public hearing would be the Enka Middle School at 7:00 P.M. She said that notices of the hearing would be mailed to all property owners in the proposed annexation area.

Upon motion of Councilman Bratton, seconded by Vice Mayor Moore, Resolution No. 90-150 was unanimously adopted.

Resolution Book 18, Page 239

C. Certification of Sufficiency of the petition for annexation of a contiguous area on Richmond Hill Drive known as the Richmond Hill Inn and Conference Center.

City Attorney William F. Slawter said no action is required on the part of City Council relative to the Certificate of of Sufficiency of the petition for annexation. He said the City Clerk has certified the petition.

D. Resolution No. 90-151 - Resolution fixing date of public hearing on question of annexation of property located on Richmond Hill Drive known as the Richmond Hill Inn and Conference Center for October 30, 1990.

Mayor Michalove said the City Clerk has investigated and made certification as to the sufficiency of the petition for the annexation of property known as the Richmond Hill Inn and conference Center as required by G.S. 160A-31. He said this resolution will fix the date of the public hearing for October 30, 1990.

Mayor Michalove said members of Council were previously furnished copies of the resolution, and it would not be read in its entirety.

Upon motion of Councilman Ellison, seconded by Vice Mayor Moore, Resolution No. 90-151 was unanimously adopted.

Resolution Book 18, Page 240 & 241

IV. NEW BUSINESS:

A. Resolution No. 90-152 - Resolution authorizing submission of an amended Statement of Community Development Objectives and Projected Use of Funds.

Marvin Vierra, Community Development Director, said this resolution will authorize submission of an Amended Statement of Objectives to HUD to allocate CDBG program income in the amount of $158,000 and reallocate $400,000 of

CDBG funds currently appropriated to the Rankin Parking facility, which has been deleted from the CDBG Program. He said the amendment will provide $442,725 for housing rehab, $30,000 for Mountain Housing Opportunities, $35,275 for Habitat for Humanity, and $50,000 for West Chapel Circle drainage. He said the amended Statement of Objectives contains projected use of the entitlement amount of $965,000 and $558,000 in program income and surplus funds for a total budget of $1,523,000.

The following is the proposed budget in the Amended Statement of Objectives:

Hill/Cherry Street Area (Head of Montford) Impvt.	$ 487,354
City-Wide Housing Rehab Grants/Loans	150,000
FAIR Homeowner Rehab	292,725
CARROT Rental Rehab	150,000
Downtown Affordable Housing Demonstration	86,300
Neighborhood Housing Services	30,000
Habitat for Humanity	35,275
Mountain Housing Opportunities	30,000
West Chapel Circle Drainage	50,000
Public Housing Victims Assistance	13,846
Fair Housing Program	14,500
Minority Business Program	30,000
Comprehensive Planning	30,000
Community Development Administration	123,000
Total	$ 1,523,000

Mayor Michalove said members of Council were previously furnished copies of the resolution, and it would not be read in its entirety.

Upon motion of Councilman Bratton, seconded by Vice Mayor Moore, Resolution No. 90-152 was unanimously adopted.

Resolution Book 18, Page 242 & 243

B. Annual Report - Affirmative Action Goals.

Mayor Michalove recognized Pam McGrayne, Personnel Director.

Ms. McGrayne said the Affirmative Action Plan was adopted on June 22, 1988. She reviewed the status of program objectives established for FY 1989-90, reviewed the employment goals for FY 1989-90 and the status of whether departments had achieved their minority and female employment goals for this time period, and presented program objectives and employment goals for FY 1990-91.

At the request of Mayor Michalove, Ms. McGrayne said she would provide Council with an Executive Summary explaining past, current, and future status of Affirmative Action goals and objectives.

C. **Ordinance No. 1871 - Budget amendment to appropriate funds for fire pumper.**

City Manager Doug Bean said $135,000 was budgeted for a fire pumper fire years ago. However, he said, the lowest responsible bid for the fire pumper was $141,795, which was $6,795 over the amount budgeted. He said this budget amendment will appropriate the additional funds needed.

Mayor Michalove said members of Council were previously furnished copies of the ordinance, and it would not be read in its entirety.

Councilman Bratton moved for the adoption of Ordinance No. 1871. This motion was seconded by Vice Mayor Moore.

On a roll call vote of 5-0, Ordinance No. 1871 passed on first and final reading.

Ordinance Book 12, Page 266

V. CONSENT:

Mayor Michalove said at the request of any member of City Council or the public, any item listed on the consent agenda may be considered separately. He summarized the items on the Consent Agenda.

A. **Resolution No. 90-153 - Resolution of intent to close unnamed alley running west off North Market Street and calling for a public hearing on November 13, 1990.**

Summary: A petition to close an unnamed alley off North Market Street running westerly and south of Lot 180 of Ward 2, Sheet 1 of the Buncombe County Tax Maps was received from David Hillier, Howard Gum, and 53 North Market Street Associates. All utilities have been asked to notify the City if any utility easements need to be maintained upon the alley to be considered for closing. Public Works has investigated the petition and find no reason the alley should not be closed. Downtown Development has also been notified of the proposed closing.

Resolution Book 18, Pages 244 & 245

B. Bids for Pistols for Police Department.

Summary: Staff recommends award to the fourth low bidder meeting specification and delivery requirements, Lawmen's

Safety Supply, Inc., Raleigh, North Carolina, in the net bid amount of $21,680.00 for the purchase of:

60 "Sig Sauer" Model P220 .45 caliber pistols at $457.00 each	$27,420.00
LESS TRADE-IN for 20 used model 5 S&W revolvers at $135.00 each	<2,700.00>
60, 7-round magazines at $24.00 each	$1,440.00
LESS TRADE-IN of 28 used model 66 S&W revolvers at $160.00 each	<$4,480.00>
TOTAL NET BID	$21,680.00

A complete bid summary is on file in the Office of the City Clerk.

C. Bids for Fire Pumper/Squad Unit for Fire Department.

Summary: Staff recommends award to the fourth low bidder meeting specification requirements, Central States Fire Apparatus, Lyons, South Dakota, for one (1) 1990 "SPARTAN", Model Diamond Eurospace No. DS-26-2042 Cab and Chassis with a "CENTRAL STATES", Model MS-1250 body and assorted options for a total bid of $141,303.00.

A complete bid summary is on file in the Office of the City Clerk.

Councilman Bratton moved for the adoption of the consent agenda. This motion was seconded by Vice Mayor Moore and carried unanimously.

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENTS - ACTION BY THE PLANNING AND ZONING COMMISSION

Mr. Gerald Green, Senior Planner, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. He said the action of the Planning and Zoning Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. He said the following actions were taken by the Planning and Zoning Commission at their meeting on October 3, 1990:

1. Mini-Storage Company/600 Patton Avenue - (Phase III, IV, & V)

Mr. Green said George Morosani, Developer, is proposing the construction of an additional six (6) self-service storage facility. He said the site is zoned LI, Light Industrial,

and is 4.6 acres in area. Phases I and II of the development, consisting of three (3) buildings, have been completed. He said the six buildings range in size from 1,200 square feet to 4,000 square feet and one of them will include a manager's office/residence. He said an issue considered by the Planning and Zoning Commission in reviewing the plan was the location of the sign installed during the construction of Phases I and II within the DOT right-of-way. However, he said the Developer is negotiating with DOT to purchase a portion of the right-of-way for the sign.

Mr. Green said after reviewing the site plan and hearing the comments of Planning Department and of the developer, the Planning and Zoning Commission voted to approve the request with two contingencies:

a. The approval does indicate the Commission's concurrence in or agreement with the location of the sign; and

b. The Planning Director shall review the approved plan for Phases I and II and assure that these phases were constructed in accordance with the approved plan.

City Council accepted the recommendation of the Planning and Zoning Commission by taking no action.

2. Addition to Twin Oaks Mobile Home Park

Mr. Green said the owner, Allen Moss, is proposing the addition of three (3) mobile homes to the Twin Oaks Mobile Home Park, which is located on Bingham Road near the Square D Plant. He said the site is 0.6 acre in area and is zoned R-5 Residential District. He said water and sewer service lines would be located under the mobile homes. He said the Fire Department has recommended the installation of a fire hydrant to provide adequate fire protection for the additional mobile homes. He said no public comments were received at the Planning and Zoning Meeting.

Mr. Green said after reviewing the site plan and hearing the comments of the staff, the Planning and Zoning Commission voted to approve the request with three contingencies:

a. Receipt of a letter indicating approval of water and sewer services;

b. Installation of a fire hydrant as directed by the Fire Department and testing of the hydrant by City staff to assure that adequate pressure is available for fire protection; and

c. Water and sewer lines located under the mobile homes should conform with applicable state and local regulations and be moved if necessary to conform with these regulations.

City Council accepted the recommendation of the Planning and Zoning Commission by taking no action.

3. Additions/Renovations to Skyland K-Mart

Mr. Green said K-Mart, located on U.S. 25 in Skyland, is proposing the construction of an addition to their commercial operation. He said the proposed addition will consist of approximately 16,000 square feet of enclosed space plus a garden shop patio. He said some parking spaces will be lost as a result of the addition, but the remaining parking will meet the requirements of the zoning ordinance. He said the Developers state that the existing buffer and parking lot landscaping will remain undisturbed.

Mr. Green said after reviewing the site plans and hearing comments from the staff, the Planning and Zoning Commission approved the request with one contingency:

a. The existing vegetative buffer and fence along the property line with Gerber shall remain undisturbed.

City Council accepted the recommendation of the Planning and Zoning Commission by taking no action.

4. Marietta Fourplex

Mr. Green said Terrence Walz is requesting approval for the construction of a 4-unit apartment building to be located on Marietta Street. He said the site is zoned R-3 Residential, and is 0.43 acre in area, and the surrounding land uses are single-family residential with no other multifamily developments in the neighborhood. He said the proposed apartments would be less than 800 square feet each.

Mr. Green said letters indicating availability of water and sewer service have not been received, nor has a letter been received from MSD providing a wastewater allocation. Mr. Green said the site plan was not prepared by a registered professional and does not meet the standards of the Planning and Zoning Commission.

Mr. Green said three neighboring property owners spoke at the meeting in opposition to the project. He said telephone calls were also received from several neighboring owners who opposed the proposed development.

After reviewing the site plan and hearing the comments of staff and the public, Mr. Green said the Planning and Zoning Commission voted to deny the request due to inadequacies in the site plan.

City Council accepted the recommendation of the Planning and Zoning Commission by taking no action.

B. **Claims - Johnnie Staigo (Water), Patricia Taylor (Water), Patricia Cothran (Water), Pat Dockery (Water), Pattie's Book Swap (Sewer) Pattie's Book Swap (Sewer) and Dan Fiore (Streets).**

The City Manager presented claims received from Johnnie Staigo (Water), Patricia Taylor (Water), Patricia Cothran (Water), Pat Dockery (Water), Pattie's Book Swap (Sewer) Pattie's Book Swap (Sewer) and Dan Fiore (Streets).

Mayor Michalove said these claims have been referred to the appropriate insurers for investigation.

C. ANNOUNCEMENT OF WATER TASK FORCE MEETING

Mayor Michalove announced that the Water Task Force would be having a special meeting with City Council and the County Commissioners at 7:00 P.M. on Thursday, October 11, 1990, in the Thomas Wolfe Auditorium of the Asheville Civic Center. Mayor Michalove invited the public to attend the meeting.

D. MOTION - CITY MANAGER AUTHORIZED TO SIGN CONTRACTS FOR "LIGHT UP YOUR HOLIDAYS"

City Manager Doug Bean requested that Council authorize him to sign contracts for "Light Up Your Holidays."

Vice Mayor made a motion that the City Manager be authorized to sign contracts for "Light Up Your Holidays." This motion was seconded by Councilman Bratton and carried unanimously.

E. COUNCILMAN BRATTON - DESIGN REVIEW

Councilman Bratton said Councilman Frank, Councilman Estes and herself had been appointed to the Design Review Committee. She said the Committee had distributed a package to Council today. She said the Committee would like to have input and suggestions from the Mayor and other Council Members.

VII. ADJOURNMENT:

Mayor Michalove adjourned the meeting at 5:56 P.M.

MAYOR

CITY CLERK

Tuesday - October 16, 1990 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Norma T. Price

INVOCATION

The invocation was given by Councilman Ellison.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the minutes of the October 9, 1990 meeting as submitted.

I. PROCLAMATIONS:

A. Resolution No. 90-154 - Resolution of recognition to Colonel Robert Morgan.

Mayor Michalove read a resolution of recognition to Colonel Robert Morgan for his heroic deeds preformed during World War II. Colonel Morgan served and defended his country as Captain of the Memphis Belle, the first B-17 Bomber to complete 25 missions without a casualty.

Upon motion of Councilman Bratton, seconded by Vice-Mayor Moore, Resolution No. 90-154 was unanimously adopted.

Mayor Michalove presented the resolution to Colonel Robert Morgan.

Resolution Book No. 18 - Page 246

B. Proclamation proclaiming October, 1990 as "Symphony Month."

Mayor Michalove read a proclamation proclaiming October, 1990 as "Symphony Month" and presented the proclamation to Philip K. Messner and Jack Sherman.

II. PUBLIC HEARINGS:

A. Public hearing relative to the adoption of a resolution to close Alley extending from Short Street in a Westerly direction.

Resolution No. 90-155 - Resolution to close alley extending from Short Street in a westernly direction in the City of Asheville, North Carolina.

Mayor Michalove opened the public hearing at 4:14 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Jim Ewing, Director of Public Works, said a petition to close the unnamed alley off Short Street and adjoining Lots 99, 100, 101, and 102 of Ward 3, Sheet 1 of the Buncombe County Tax Maps has been received from the Asheville Housing Authority. The closing has been checked with City departments and public utility companies and should have no effect upon the operation of either the City or utility companies. He said the Public Works Department recommends the closing of this alley.

Mayor Michalove closed the public hearing at 4:17 p.m.

Mayor Michalove said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Estes, seconded by Councilman Ellison, Resolution No. 90-155 was unanimously adopted.

Resolution Book No. 18 - Page 247-248

III. OLD BUSINESS:

A. **Resolution No. 90-156 - Resolution authorizing the sale of property on Bear Creek Road.**

The City Attorney said the City owns a parcel of land on Bear Creek Road. Adjacent property owner, Grover C. Mathews, has made an offer to purchase the property in the amount of $4,500. The City has no anticipated use for the property, other than reservation of certain utility easements. The offer to purchase was advertised in the Asheville Citizen-Times on September 14, 1990, and no upset bids have been received within the time required. This resolution will authorize the Mayor to execute the deed conveying the property and any other closing documents.

Mayor Michalove said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Vice-Mayor Moore, Resolution No. 90-156 was unanimously adopted.

Resolution Book No. 18 - Page 249

IV. NEW BUSINESS:

A. Report from Tax Collector.

Elizabeth Taylor, Tax Collector, gave members of Council a report on the settlement of taxes for year ending June 30, 1990. She said due to strong enforcement measures being taken they now have a 97.23% collection rate. She said the collection rate for the years 1981-1987 is now at 99.28% and for 1988 the figure is at 98.02%. She said she is proud of these figures and would continue to strive for a good collection rate.

B. Presentation on the Police Department's participation in the accreditation process.

Resolution No. 90-157 - Resolution of City Council endorsement of the Asheville Police Department's intention to acquire accreditation from the Commission for Law Enforcement Agencies, Inc.

Police Chief Gerald Beavers said one of his goals since becoming Police Chief has been to become an accredited law enforcement agency. He said the Commission on Accreditation for Law Enforcement Agencies, Inc., was established in 1979 as a national body of law enforcement experts to oversee the development of professional standards for law enforcement agencies.

He said the Commission awards accreditation to those agencies which meet applicable standards. He highlighted the process and national criteria for becoming accredited.

He said the Police Department seeks to become accredited and be recognized for achieving this professional status. He said this goal represents a 3 to 4 year project for the Department requiring extensive evaluation of all aspects of organizational management and operations. He said the process will provide the means and motivation to initiate and sustain positive change in the department to meet and maintain compliance with applicable standards.

He said Captain Mike Berry has been named as Accreditation Manager for the Asheville Police Department.

Police Chief Beavers said incidental expenses to meet standards will be budgeted over several years. A one-time initial accreditation commission fee of approximately $15,000 will be requested in the FY 1992-93 Budget.

Mayor Michalove said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Vice-Mayor Moore, seconded by Councilman Frank, Resolution No. 90-157 was unanimously adopted.

Resolution Book No. 18 - Page 250

C. **Report by Transit Authority.**

Vice-Mayor Moore, Council liaison to the Asheville Transit Authority, presented members of Council with the Asheville Transit Authority projections.

He said the Asheville Transit system is a tightly well managed system serving the City of Asheville. He said route adjustments have been made which has saved money and only caused minor inconveniences to the ridership.

Vice-Mayor Moore said one of the major problems is finance and according to the projections - unless drastic changes are made - the 1995 cost to the City will be from $1.2 to $1.4 million in order to keep the transit system running as it is currently.

Paul Hensley, Chairman of the Asheville Transit Authority, presented the new route changes. He said a comprehensive report to Council will be ready by December 1, 1990.

D. **Ordinance No. 1872 - Budget amendment to appropriate Fair Housing Assistance Program Grant Funds.**

The City Manager said the City has received approval from the Department of Housing and Urban Development for the fourth year funding of the Fair Housing Assistance Program in the amount of $4,000. This action will appropriate the funds into the budget. The project will be administered by the Asheville-Buncombe Community Relations Council under contract with the City of Asheville.

Mayor Michalove said members of Council were previously presented copies of the ordinance and it would not be read in its entirety.

Councilman Bratton moved for the adoption of Ordinance No. 1872. This motion was seconded by Councilman Ellison.

On a roll call vote of 6-0, Ordinance No. 1872 passed on first and final reading.

Ordinance Book No. 12 - Page 267

E. Ordinance No. 1873 - Budget amendment to appropriate funds for Downtown Marketing Program in the Downtown Development Department.

The City Manager said this budget amendment will set up appropriations for the Downtown Marketing Program.

Mayor Michalove said members of Council were previously presented copies of the ordinance and it would not be read in its entirety.

Councilman Ellison moved for the adoption of Ordinance No. 1873. This motion was seconded by Councilman Bratton.

On a roll call vote of 6-0, Ordinance No. 1873 passed on first and final reading.

Ordinance Book No. 12 - Page 268

F. Ordinance No. 1874 - Budget amendment to appropriate funds for the Globe Furniture Facade stabilization project.

The City Manager said this amendment will enable revenues to be accepted and bills to be paid to perform the Globe Furniture Facade stabilization project.

Mayor Michalove said members of Council were previously presented copies of the ordinance and it would not be read in its entirety.

Councilman Ellison moved for the adoption of Ordinance No. 1874. This motion was seconded by Councilman Bratton.

On a roll call vote of 6-0, Ordinance No. 1874 passed on first and final reading.

Ordinance Book No. 12 - Page 269

G. Resolution No. 90-158 - Resolution relative to Hazardous Waste.

The City Attorney said this resolution will authorize the County to enforce its hazardous waste ordinance within the City of Asheville. Before beginning enforcement, the County must also amend its hazardous waste ordinance.

Mayor Michalove said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Ellison, seconded by Vice-Mayor Moore, Resolution No. 90-158 was unanimously adopted.

Resolution Book No. 18 - Page 251

Mike Plemmons with the Council of Independent Business Owners (CIBO) said they supported the resolution but would request that the City ask the county to furnish a hazardous waste storage facility at the landfill.

V. CONSENT:

A. Bids for workstations/office furnishings for the City Hall Building.

SUMMARY: Recommendation to award to second low bidder meeting specifications and delivery requirements, Office Environments, Asheville, North Carolina, for the purchase and installation of Steelcase, Movable Wall workstations as specified in the third through sixth floors of City Hall.

B. Resolution No. 90-159 - Resolution authorizing Purchasing Director to sell surplus property at public auction.

SUMMARY: This resolution will authorize a public auction to sell surplus motor vehicles and other equipment.

Resolution Book No. 18 - Page 252

C. Schedule public hearing relative to rezoning property located on Old County Home Road from CS Commercial Service District to LI Light Industrial District for November 6, 1990 (Petitioned by Tunamics, Inc.).

SUMMARY: The Asheville Planning and Zoning Commission on October 3, 1990, reviewed and recommended approval of the rezoning. Subject property is 5.23 acre site with existing warehouse manufacturing facility on part of the acreage. The facility currently is on nonconforming grandfathered use in a commercial service zone.

Upon motion of Vice-Mayor Moore, seconded by Councilman Ellison, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

Elizabeth and Harold Garland - Parking fees in Civic Center Garage

Mrs. Elizabeth Garland, owner of Elizabeth's in downtown, expressed concern over the increase in monthly parking fees for the Civic Center Garage. She said she pays for her employees to park at the Civic Center Garage and feels it is unfair for the businesses downtown to have to pay such high fees for parking.

Mrs. Garland also expressed concern about the loud music in the Civic Center Garage.

Mr. Harold Garland said he was also concerned about the high parking fees at the Civic Center Garage.

After discussion, Mayor Michalove said her concerns would be considered and Council would get a recommendation from the Downtown Commission relative to changing the monthly parking fees at the Civic Center Garage.

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 5:15 p.m.

H. M. Michalove
MAYOR

William J. Wolcott
CITY CLERK

Regular Meeting - October 23, 1990

NO MEETING - N. C. LEAGUE CONVENTION

RALEIGH, NORTH CAROLINA

W. M. Nichols
MAYOR

Miriam J. Metcalf
CITY CLERK

Tuesday - October 30, 1990 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Norma T. Price, and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Wilhelmina Bratton, Councilman Eugene W. Ellison and Councilman Mary Lloyd Frank

INVOCATION

The invocation was given by Councilman Price.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the minutes of the October 16, 1990 meeting as submitted.

JOE HAIGHT - ASHEVILLE CABLEVISION

Joe Haight, General Manager of Asheville Cablevision (United Artists) introduced Ann Hoag, new General Manager of Asheville Cablevision effective October 31, 1990. Mr. Haight said he would be leaving Asheville Cablevision and the Asheville area but enjoyed the working and personal relationship he had with the people in Asheville.

Mayor and members of Council welcomed Ms. Hoag but said it was unfortunate that Joe Haight was leaving since he had been an asset to the cablevision industry in Asheville and the community as a whole.

MS. AKIKO IRIBE - KUMAMOTO, JAPAN

The City Manager introduced Ms. Akiko Iribe from Kumamoto, Japan who is participating in an international internship program involving Japanese local government managers through the Academy for State and Local Governments.

He said Akiko will be in Asheville for the next two weeks. He said she has worked with the cultural facilities department of Kumamoto prefecture for the

past two years and is especially interested in tourism development.

I. **PROCLAMATIONS:**

A. **Resolution No. 90-160 - Resolution of appreciation to recent retiree, Ransom Robinson.**

Harold Huff, Director of Water and Sewer Services, said Mr. Robinson has been with the City for 20 years. He worked in the Water Maintenance Department as a Meter Technician and retired in September, 1990.

Mayor Michalove read the resolution.

Upon motion of Councilman Price, seconded by Vice-Mayor Moore, Resolution No. 90-160 was unanimously adopted.

Resolution Book No. 18 - Page 253

B. **Resolution No. 90-161 - Resolution of appreciation to recent retiree, Lee Roy Clements.**

Harold Huff, Director of Water and Sewer Services, introduced Mr. Clements and said Mr. Clements has been with the City for 7 years. He worked in the Water Maintenance Department as a Labor Crew Supervisor II and retired in September, 1990.

Mayor Michalove read the resolution.

Upon motion of Councilman Price, seconded by Vice-Mayor Moore, Resolution No. 90-161 was unanimously adopted.

Resolution Book No. 18 - Page 254

Mayor Michalove presented the resolution to Lee Roy Clements.

C. **Resolution No. 90-162 - Resolution of appreciation to recent retiree, Lee Monroe Parham.**

Harold Huff, Director of Water and Sewer Services, introduced Mr. Parham and said Mr. Parham has been with the City for 9 years. He worked in the Water Maintenance Department as an Auto Mechanic and retired in September, 1990.

Mayor Michalove read the resolution.

Upon motion of Councilman Price, seconded by Vice-Mayor Moore, Resolution No. 90-162 was unanimously adopted.

Resolution Book No. 18 - Page 255

Mayor Michalove presented the resolution to Lee Roy Clements.

II. PUBLIC HEARINGS:

A. **Continuation of public hearing relative to Hillside Development requirements.**

SUMMARY: Ordinance amending the Hillside Development Requirements as set forth in Ordinance Number 631. The proposed amendments would assure that graded areas are distributed throughout the site and extend the Hillside Development Regulations to subdivisions. This public hearing was held on August 21, 1990 but was continued until October 30, 1990.

It is anticipated that this public hearing will be continued until the November 27, 1990 meeting.

Vice-Mayor Moore moved to continue the public hearing relative to Hillside Development requirements until November 27, 1990 without further advertisement. This motion was seconded by Councilman Estes and carried unanimously.

B. **Public hearing relative to the annexation of property located on Richmond Hill Drive.**

Ordinance No. 1875 - An ordinance to extend the Corporate Limits of the City of Asheville, North Carolina, by annexing a contiguous area located on Richmond Hill Drive.

Mayor Michalove opened the public hearing at 4:20 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Julia Cogburn, Director of Planning, said the owners of property contiguous to the City Limits of the City of Asheville have requested to be annexed. The property is owned by the Education Center, Inc. and is the site of the Richmond Hill Inn and Conference Center (Ward 12, Sheet 24, Lot 80). She said the site contains approximately 7-1/2 acres and is located at 87 Richmond Hill Drive. She said the procedures outlined in N. C. Gen. Stat. Sec 160A-31 have been followed relative to annexation by petition.

Jim Samsel, with the Education Center, Inc. requested that Council read the ordinance on three readings at today's meeting.

The City Attorney noted that the ordinance could not be read on three readings today since it takes a 2/3's vote of Council (5 members) to suspend the rules to proceed to the second and third readings of an ordinance.

Mayor Michalove closed the public hearing at 4:29 p.m.

The City Manager said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Vice-Mayor Moore moved for the adoption of Ordinance No. 1875. This motion was seconded by Councilman Price.

On a roll call vote of 4-0, Ordinance No. 1875 passed on first reading.

C. **Public hearing relative to rezoning property on Forest Hill Drive - Memorial Mission Medical Center, Owner.**

Mayor Michalove opened the public hearing at 4:32 p.m. and said the petitioner requested that the public hearing be continued until December 11, 1990.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Councilman Estes moved to continue the public hearing until December 11, 1990 without further advertisement. This motion was seconded by Councilman Price and carried unanimously.

Mayor Michalove requested that the Planning Department notify the property owners in the area of the continuation of the public hearing.

III. OLD BUSINESS:

A. **Resolution No. 90-163 - Resolution to close Beaumont Street between South Charlotte Street and South Market Street.**

The City Manager said the closing of this section of Beaumont Street will allow maximum usage of the area for the Public Works Operations Complex. He said the City staff met with the South Pack Square Committee relative to the closing of Beaumont Street to develop a compromise to their opposition to closing Beaumont Street. He presented a site plan for the Public Works

Facility Complex. He said the closing of Beaumont Street is necessary for the internal circulation of operations. He said the residents of the area are concerned about the impact the facility will have on the commercial area of Eagle and Market Street. He said an acceptable compromise was reached to relocate South Beaumont Street as shown on the proposed site plan.

Wanda Henry Coleman, with the YMI Cultural Center, Inc. said the Public Works Facility Study Team recommends the approval of the Public Works Facility Plan, with the proposed relocation of South Beaumont Street, and the contingency that the present site of the Water Department Building on South Charlotte Street (Old Beaumont Street) be converted for use as a neighborhood commercial site. She said the residents strongly recommend that Council give assurance that a neighborhood commercial site will be found for the neighborhood.

Jim Samsel, Co-Chairman of the South Pack Square Committee, reiterated comments made by Wanda Henry Coleman.

Members of Council said they could not commit the Water Department Building on South Beaumont Street for a neighborhood commercial site but would be willing to work with the residents to find a suitable commercial site in the area.

Larry Holt, Deputy Executive Director of the Housing Authority, said the original East End/Valley Street Redevelopment Plan included plan to move the commercial zoning out of the residential area. He said the Housing Authority was not involved in the recommendation regarding South Beaumont Street.

Dee Williams, with the Asheville Business Development Council, said the residents in the area are concerned about the proposed Public Works Facility. She said the area has been disinvested.

After considerable discussion, Councilman Price moved for the adoption of Resolution No. 90-163 to close Beaumont Street as recommended on the site plan presented by the City Manager. She further moved that the City Staff work with the South Pack Square Committee for the development of a neighborhood commercial site for the area. This motion was seconded by Vice-Mayor Moore and carried unanimously.

Resolution Book No. 18 - Page 256 - 257

IV. NEW BUSINESS:

A. **Ordinance No. 1876 - Ordinance creating the Asheville-Buncombe Fair Housing Commission.**

The City Attorney said the City Council created the Asheville Fair Housing Commission on October 15, 1985. He said this ordinance establishes the Asheville-Buncombe Fair Housing Commission under authority of Chapter 213 of the 1989 North Carolina Session Laws.

Councilman Price questioned why the provisions of the ordinance stated that the Buncombe County Commissions appoint four (4) members and the Asheville City Council appoint three (3) members.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Price moved for the adoption of Ordinance No. 1876. This motion was seconded by Vice-Mayor Moore.

On a roll call vote of 4-0, Ordinance No. 1876 passed on first reading.

B. **Report on the petition regarding assessment process for street improvements.**

Assistant City Manager Charles Penny reviewed the following memorandum relative to assessments for public improvements.

MEMORANDUM TO: Douglas O. Bean, City Manager

FROM: Charles W. Penny, Assistant City Manager

DATE: October 26, 1990

SUBJECT: Petition Assessment for Public Improvements

The city has been approached by a number of property owners requesting that the City take over the maintenance of private streets. The prerequisite utilized by the City staff for taking over the maintenance of streets is that the streets meet City standards, and in most cases, the streets do not conform to city standards. In order for the city to take over the maintenance of the streets, the streets must be brought up to city standards and property owners are requested to participate on a 50/50 basis with the city in bringing the streets up to standards. The North Carolina General Statutes section 168-216 authorizes the city to make special assessments for improvements to streets, sidewalks, water or storm drainage systems.

The use of the special assessment process will allow property owners to spread their share of the cost over a five to ten year period. Only a majority of the property owners are required to petition for the assessment process to be utilized. The actual costs of the project assessed to the property owners are collected annually on the property owners tax bill. Only 50% of the actual costs of the improvements can be assessed to the property owners unless all of the property owners affected by the improvement agree to a higher percentage. Property owners also pay interest for using the assessment process at a rate not to exceed 8 percent per year.

Currently, City staff is working with a number of communities that are requesting City maintenance of their roads. One example is the Deerwood community off Hendersonville Highway. Property owners are requesting that we maintain their streets; however, the streets were not built to city standards when the development was put in several years ago. Staff estimates the property owners cost to be approximately $100,000, and the property owners have been informed of this cost. We have also shared with the property owners information on the assessment process as provided under the North Carolina General Statutes. The property owners in the Deerwood community have asked us to proceed with defining the specific work to be done and an estimated cost for the work.

The assessment procedures contain a number of requirements that the City Council must approve. Council will be required to adopt a number of resolutions, to conduct a public hearing, and to review the final cost upon completion of the work.

Our Legal staff has been involved in developing the necessary documents for proceeding with the use of the assessment process, and if we can answer any further questions on this matter we will certainly attempt to do so.

The City Manager said funds could be built into the CIP Budget for the assessment process and Council could control how much the city will commit to each project.

C. Resolution No. 90-164 - Resolution approving an amendment to the Asheville-Buncombe Water Authority By-Laws and authorizing the execution of an amendment to the Supplemental Water Agreement.

The City Attorney said this resolution will approve an amendment to the Asheville-Buncombe Water Authority bylaws and authorize the execution of an amendment to the Water Agreement so as to provide that the terms of the Water Authority members may be extended. The current provisions of the Water Agreement and the bylaws limit membership on the Water Authority to two (2) successive three (3) year terms. That restriction will still apply except when there is agreement by the City, the County and the Water Authority to do otherwise.

Mayor Michalove said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Vice-Mayor Moore, seconded by Councilman Estes, Resolution No. 90-164 was unanimously adopted.

Resolution Book No. 18 - Page 258-259

D. **Resolution No. 90-165 - Resolution extending the terms of the current members of the Asheville-Buncombe Water Authority.**

The City Attorney said this resolution will extend the terms of the City appointees to the Asheville-Buncombe Water Authority by one (1) year each. Similar actions will be taken by the County and the Water Authority to extend the terms of the other members for one (1) year.

Mayor Michalove said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Vice-Mayor Moore, seconded by Councilman Estes, Resolution No. 90-165 was unanimously adopted.

Resolution Book No. 18 - Page 260-261

V. CONSENT:

VI. OTHER BUSINESS:

Resolution No. 90-166 - Resolution authorizing the condemnation of property in the Delaware Avenue Street Improvement Project

The City Manager presented a resolution authorizing the condemnation of property in the Delaware Avenue Street Improvement Project. He said the Delaware Avenue improvements require additional right-of-way from three different property owners, settlements have been reached with two owners. Negotiations with the third owner are still $2,550.00 apart. Further negotiations will require a substantial period of time and the Delaware Avenue Project would have be shut down unless a negotiated settlement is reached within the next 30 days. Condemnation of the portion of property would allow the project to continue with only slight delay. Although the property is condemned, every effort will be made to reach a negotiated settlement with Mr. Bowling.

Upon motion of Councilman Estes, seconded by Councilman Price, Resolution No. 90-166 was unanimously adopted.

Resolution Book No. 18 - Page 262

Claims - B. C. Wright (Streets) - Mrs. J. C. Graham (Water) - Eric Velez (Sewer) - Betty Patterson (Streets) -Dennis Thomas (Streets) - City of Asheville (Property)

Claims were presented from B. C. Wright, Mrs. J. C. Graham, Eric Velez, Betty Patterson, Dennis Thomas and the City of Asheville.

Mayor Michalove said the claims have been referred to the appropriate insurers for investigation.

Lawsuit - Debbie Welborn (Appeal from Civil Service Board Decision) - Jack V. Babb (Supplemental Retirement Benefits for disability while acting in the line of duty)

The City was served with lawsuits on October 26, 1990 involving Debbie Welborn (appeal from Civil Service Board) and in the matter of the application and claim of Jack V. Babb, former employee of the Asheville Fire Department.

These lawsuits have been referred to the appropriate legal counsel for action.

Lucy Harrison - Ridge Street

Mayor Michalove read a letter received from Lucy Harrison from 38 Ridge Street requesting that the City take action to demolish and remove 42 Ridge Street.

Lucy Harrison appeared before Council requesting that the condemned house be demolished and that the walkways on Ridge Street be improved.

Mayor Michalove requested that the City Manager give members of Council a report on this request at next week's Council meeting.

VII. ADJOURNMENT

Mayor Michalove adjourned the meeting at 6:00 p.m.

H. M. Michalove
MAYOR

William F. Holcomb
CITY CLERK

Tuesday - November 6, 1990 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Wilhelmina Bratton

INVOCATION

The invocation was given by Councilman Ellison.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the minutes of the October 30, 1990 meeting as submitted.

I. PROCLAMATIONS:

A. Presentation by David Donally, President of Region 9 of the North Carolina Parks and Recreation Society.

David Donally, President of Region 9 of the North Carolina Parks and Recreation Society presented Ann Whisenhut the Annual Region 9 Award of Excellence for Recreation Professionals of the Year for the seventeen (17) county region.

B. Resolution No. 90-167 - Resolution in memory of Margaret Simmons.

Mayor Michalove read a resolution in memory of Margaret Simmons who recently passed away. Margaret Simmons was employed by the City of Asheville from 1934 to 1971. During her 37-year career, Ms. Simmons served as Secretary to the City Attorney, Secretary to the City Manager, and served for 25 years as City Clerk.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 90-167 was unanimously adopted.

Resolution Book No. 18 - Page 263

C. **Resolution No. 90-168 - Resolution recognizing and welcoming Akiko Iribe**

Mayor Michalove read a resolution which stated that in order to increase mutual understanding and to exchange information between local government officials in the United States and Japan, the Academy for State and Local Government and the Japan Local Government Internationalization Association are sponsoring a two-week orientation/internship program for Japanese local government officials in selected North Carolina cities.

The City of Asheville has been selected to participate in the program starting Monday, October 29 through Saturday, November 10, 1990.

The City Council of the City of Asheville does endorse this program and commends the sponsoring organizations for their efforts towards international friendship and mutual understanding.

Akiko Iribe, through her efforts, is contributing to international friendship and mutual understanding between our two countries.

The City of Asheville does hereby recognize and welcome Akiko Iribe of Kumamoto, Japan, as a distinguished visitor and extends their best wishes to Akiko Iribe for a pleasant and rewarding visit.

Upon motion of Councilman Ellison, seconded by Vice-Mayor Moore, Resolution No. 90-168 was unanimously adopted.

Resolution Book No. 18 - Page 264

II. PUBLIC HEARINGS:

A. **Public hearing relative to rezoning property located on Old County Home Road - petition of Turnamics, Inc., Owner.**

Ordinance No. 1877 - An ordinance rezoning property located on Old County Home Road - petition of Turnamics, Inc., Owner.

Mayor Michalove opened the public hearing at 4:16 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Carol Alberice, from the Planning Department, said the Asheville Planning and Zoning Commission on October 3, 1990, reviewed and recommended approval of the rezoning. Subject property is 5.23 acre site with existing warehouse manufacturing facility on part of the acreage. The facility currently is a nonconforming grandfathered use in a commercial service zone. She reviewed the surrounding zoning and property use.

She said the Planning Staff recommended tabling the rezoning request at this time. She said the staff was concerned that the zoning would not be appropriate for the area; however, the staff was very supportive of this type of development in this area.

Pat Whalen, Attorney for petitioner, said Turnamics wants to enlarge their plant which would produce more jobs for the Asheville area. He said Turnamics has been in this location for the past twenty years and is a non-polluting business. He said they contacted the residents and commercial businesses in the area and received no objections to the rezoning.

Mayor Michalove closed the public hearing at 4:36 p.m.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Ellison moved for the adoption of Ordinance No. 1877. This motion was seconded by Councilman Estes.

On a roll call vote of 6-0, Ordinance No. 1877 passed on first reading.

Councilman Ellison moved to suspend the rules and proceed to the second reading of Ordinance No. 1877. This motion was seconded by Councilman Estes and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1877 passed on second reading.

B. **Continuation of a public hearing relative to Richmond Hill Inn Group Development.**

Mayor Michalove said this public hearing was continued from the September 18, 1990 meeting.

Julia Cogburn, Director of Planning, again requested that the public hearing be continued until December 18, 1990.

Vice-Mayor Moore moved to continue the public hearing until December 18, 1990 without further advertisement. This motion was seconded by Councilman Frank and carried unanimously.

III. OLD BUSINESS:

A. **Ordinance No. 1875 - Second reading of an ordinance relative to the annexation of property located on Richmond Hill Drive.**

Mayor Michalove said the owners of property contiguous to the City Limits of the City of Asheville have requested to be annexed. The property is owned by the Education Center, Inc. and is the site of the Richmond Hill Inn and Conference Center (Ward 12, Sheet 24, Lot 80). On October 30, 1990, a public hearing was held and this ordinance passed on first reading.

Mayor Michalove said the ordinance was previously read on first reading and would not be read in its entirety.

On a roll call vote of 6-0, Ordinance No. 1875 passed on second reading.

Councilman Ellison moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1875. This motion was seconded by Vice-Mayor Moore and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1875 passed on third and final reading.

Ordinance Book No. 12 - Page 270-271

B. **Ordinance No. 1876 - Second reading of an ordinance creating the Asheville-Buncombe Fair Housing Commission.**

Mayor Michalove said the City Council created the Asheville Fair Housing Commission on October 15, 1985. This ordinance establishes the Asheville-Buncombe Fair Housing Commission under authority of Chapter 213 of the 1989 North Carolina Session Laws. This ordinance passed on first reading on October 30, 1990.

Mayor Michalove said the ordinance was previously read on first reading and would not be read in its entirety.

On a roll call vote of 6-0, Ordinance No. 1876 passed on second reading.

Councilman Ellison moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1876. This motion was seconded by Vice-Mayor Moore and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1876 passed on third and final reading.

Ordinance Book No. 12 - Page 272 - 273

IV. NEW BUSINESS:

V. CONSENT:

A. **Resolution No. 90-169 - Resolution appointing members to the Asheville-Buncombe Fair Housing Commission.**

SUMMARY: The City of Asheville and County of Buncombe created the Fair Housing Commission, and this Commission is charged with the duty of enforcing the State Fair Housing Act in Buncombe County. The ordinance creating the Commission provides for the City of Asheville to have three (3) appointees to said Commission. This resolution will appoint Edward R. Schell, Claude Drake, and Edward Hay to 2-year terms, term expiring December 31, 1992.

Resolution Book No. 18 - Page 265

B. **Resolution No. 90-170 - Resolution authorizing the Mayor of the City of Asheville to execute easement in favor of the Carolina Power and Light Company for property at the Asheville Regional Airport.**

SUMMARY: Carolina Power and Light Company has requested that the City of Asheville execute a right-of-way easement on property belonging to the City of Asheville at the Asheville Regional Airport, being the land described in a lease from the City of Asheville to the Asheville Regional Airport Authority dated July 1, 1980, and recorded in Deed Book 1287, Page 570, Buncombe County Registry, as shown on Carolina Power and Light Company Drawing AA-5287, dated October 19, 1990;

Resolution Book No. 18 - Page 266

Upon motion of Vice-Mayor Moore, seconded by Councilman Ellison, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

Mike Plemmons - Council of Independent Business Owners

Mike Plemmons with the Council of Independent Business Owners, said with the pending economic recession Council should not threaten businesses with impending zoning regulations that would not take place for two to three years. He said Council should not do anything that would delay business expansions.

VII. ADJOURNMENT

Mayor Michalove adjourned the meeting at 4:45 p.m.

H.M. Michalove
MAYOR

William F. Wolcott
CITY CLERK

Tuesday - November 13, 1990 - 4:00 p.m.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Wilhelmina Bratton, Mary Lloyd Frank, Norma T. Price, and Eugene W. Ellison; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: Councilman William Estes was attending a judging at the Western North Carolina Development Association.

INVOCATION

The invocation was given by Mayor Michalove.

APPROVAL OF THE MINUTES

Mayor Michalove announced the approval of the minutes of the November 6, 1990, City Council meeting.

I. PROCLAMATIONS:

A. **Proclamation proclaiming November 14, 1990, as "Operating Room Nurse Day."**

Mayor Michalove proclaimed November 14, 1990, as "Operating Room Nurse Day" and presented the proclamation to Ms. Juanita Wood, who works at Memorial Mission Surgeon Care. She stated that they are trying to educate the public on the role of the operating room nurses and invited Council members and the public to stop by and ask some questions.

B. **Proclamation proclaiming the week of November 18 - 24, 1990, as "St. Joseph's Hospital Week."**

Mayor Michalove proclaimed the week of November 14 - 18, 1990, as "St. Joseph's Hospital Week" and presented the proclamation to Mr. Lewis Daniels. Mr. Daniels stated that to celebrate the 90th Anniversary of St. Joseph's Hospital, they started the Tree of Life Program and will be donating money over the next 10 years for the planting of trees. He said that St. Joseph's will at this time donate checks for 90 trees to be placed along French Broad Avenue and at the Beaver Lake Sanctuary. He said that by the year 2000, over 1,000 trees will have been planted in the City of Asheville by St. Joseph's Hospital as living memorials to the Sisters of Mercy. He presented one check to Ms.

Georgia Parker for 45 trees to be planted in the Beaver Lake Sanctuary. He then presented another check to Ms. Susan Roderick for 45 trees to be planted along the French Broad Avenue.

The members of Council thanked Mr. Daniels for the wonderful way they are commemorating this anniversary and that the trees would be a great asset to the City.

C. **Proclamation proclaiming November 14, 1990, as "Young Reader's Day."**

Mayor Michalove proclaimed November 14, 1990, as "Young Reader's Day."

D. **Proclamation officially starting the "1990 Light Up Your Holidays Festival."**

Mayor Michalove officially proclaimed the "1990 Light Up Your Holidays Festival" to be in progress.

II. PUBLIC HEARING:

Public hearing relative to close an alley south of Tax Lot 180, Ward 2, Sheet 1 and running west of North Market Street.

Resolution No. 90-171 - Resolution to close an alley south of Tax Lot 180, Ward 2, Sheet 1 and running west of North Market Street in the City of Asheville, North Carolina.

Mayor Michalove opened the public hearing at 4:20 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Mr. Larry Ward, Assistant Director of Public Works, stated that a petition had been received by the adjacent property owners asking that this alley be closed. He said that cablevision, CP&L, Southern Bell and Public Service Gas have lines in that alley but the easements are reserved. He said that he has checked with City departments and they see no reason not to close the alley.

Councilman Price asked that maps accompanying resolutions and ordinances be marked in order to identify the item being discussed.

Mayor Michalove closed the public hearing at 4:26 p.m.

Mayor Michalove said that members of Council were previously furnished with copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Bratton, seconded by Councilman Frank, Resolution No. 90-171 was unanimously adopted.

RESOLUTION BOOK NO. 18 - PAGE 267-268

At this time (4:27 p.m.), Councilman Wilhelmina Bratton left the meeting in order to attend a conference in Durham, North Carolina, sponsored by the North Carolina Mutual Life Insurance Company.

III. OLD BUSINESS:

A. Ordinance No. 1877 - Second reading of an ordinance rezoning property located on Old County Home Road - Petition of Turnamics, Inc., Owner.

Mr. Pat Whalen, attorney for the petitioner, asked Council to pass this ordinance on its second and third reading today.

On a roll call vote of 5-0, Ordinance No. 1877 passed on its second reading.

Councilman Ellison moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1877. This motion was seconded by Councilman Price and carried on a 4-1 vote, with Vice-Mayor Moore voting "no."

Councilman Price stated that she would not have seconded the above motion but since the City Council will not be meeting next week, she felt that the petitioners should not have to wait two more weeks for adoption of this ordinance.

On a roll call vote of 5-0, Ordinance No. 1877 passed on its third and final reading.

ORDINANCE BOOK NO. 12 AT PAGE 274

IV. NEW BUSINESS:

A. Ordinance No. 1878 - Budget amendment to appropriate funds for amended CDBG Program.

City Manager Bean stated that this ordinance will appropriate CDBG program income and surplus funds for the FAIR and CARROT housing rehabilitation programs in the amount of $442,725. He said also appropriated will be $30,000 for administrative cost of Mountain Housing Opportunities; $35,275 administrative cost of Habitat for Humanity; and $50,000 for the West Chapel Circle Drainage. He said these projects were approved by City

Council on October 9, 1990, by adoption of Resolution No. 90-152.

Vice-Mayor Moore moved for the adoption of Ordinance No. 1878. This motion was seconded by Councilman Price.

On a roll call of 5-0, Ordinance No. 1878 passed on its first and final reading.

ORDINANCE BOOK NO. 12 AT PAGE 275

B. **Resolution No. 90-172 - Resolution authorizing the City Manager to purchase umbrella liability coverage. from Sedgwick James of North Carolina, INC.**

City Manager Bean stated that when the bids for the City's insurance coverage were awarded two months ago, we were still getting quotes on this umbrella coverage. He stated that the City has bound coverage of $5 million at the present time and the consultant has recommended that the City get $10 million worth of coverage for an additional $9,000.

Upon inquiry of members of Council, John Miall, Director of Risk Management explained the $5 million coverage amount versus the $10 million coverage amount. He stated that for a 12 month period of time, $5 million would cost the City $172,000 and $10 million would cost the City $200,000. He further stated that on a prorated basis (through September 1, 1991), the City could purchase $5 million worth of coverage for $156,000 and $10 million worth of coverage for $181,000.

Councilman Ellison moved to authorize the City Manager to purchase umbrella liability coverage in the amount of $5 million from Sedgwick James of North Carolina, Inc. This motion was seconded by Councilman Frank and carried unanimously.

RESOLUTION BOOK NO. 18 AT PAGE 269

C. **Report on War on Drugs Commission.**

Mayor Michalove stated that this item has been deleted from the agenda and that the City Manager has been instructed to write a letter to the Commission.

V. CONSENT:

A. **Resolution declaring that portions of Porter Street, Atkin Avenue and an unnamed alley are part of the Street Plan of the City of Asheville adopted pursuant to N. C. Gen. Stat. sec. 136-66.2.**

City Manager Bean asked that this item be pulled off of the Consent Agenda and be considered after the Consent Agenda.

B. Scheduling a public hearing relative to amending Section 30-5-15 (conservation overlay for historic landmarks) to allow for a conditional use district of historic landmarks for November 27, 1990.

C. Resolution No. 90-173 - Resolution appointing member to Firemen's Relief Fund.

The term of office of Webb E. Ellis as a member of the Firemen's Relief Fund - Board of Trustees - expires on January 1, 1991. This resolution will reappoint Mr. Ellis as a member to serve a two year term, term expiring January 1, 1993, or until his successor is duly appointed and qualified.

RESOLUTION BOOK NO. 18 - PAGE 270

D. Resolution No. 90-174 - Resolution appointing members to the Board of Adjustment under Ordinance No. 322, as amended.

The terms of office of Richard A. Bass, Hal F. Starnes and Michelle Rippon as members of the Board of Adjustment expire January 21, 1991. This resolution will reappoint these individuals to serve three year terms, terms expiring January 21, 1994, or until their successors are duly appointed and qualified.

RESOLUTION BOOK NO. 18 - PAGE 271

E. Resolution No. 90-175 - Resolution appointing member to the Asheville-Buncombe Crime Stoppers Committee.

Joe Haight resigned as a member of the Asheville-Buncombe Crime Stoppers Committee. This resolution will appoint Steve Curtis as a member of the Asheville-Buncombe Crime Stoppers Committee to serve the unexpired term of Joe Haight, term expiring June 30, 1993, or until his successor is duly appointed and qualified.

RESOLUTION BOOK NO. 18 - PAGE 272

F. Resolution No. 90-176 - Resolution appointing member to the City of Asheville Board of Alcoholic Control.

The term of office of Osborne M. Hart as a member of the Alcoholic Beverage Control Board expires on November 13, 1990. This resolution will reappoint Osborne M. Hart as a member to serve a three year term, term expiring November 13, 1993, or until his successor is duly appointed and qualified.

RESOLUTION BOOK NO. 18 - PAGE 273

G. **Resolution No. 90-177 - Resolution appointing members to the Asheville-Buncombe Community Relations Council.**

The terms of Hazel Turner and Linda McDaniel as members of the Asheville-Buncombe Community Relations Council expire on December 31, 1990. This resolution will reappoint Hazel Turner and Linda McDaniel as members of the Asheville-Buncombe Community Relations Council, and shall serve three year terms, terms expiring on December 31, 1993, or until their successors are duly appointed and qualified.

RESOLUTION BOOK NO. 18 - PAGE 274

H. **Resolution appointing member to the Recreation Board for Asheville.**

The term of office of Sherman Williams as a member of the Recreation Board expired on June 30, 1990. This resolution will appoint James A. Grant as a member to serve a three year term, term expiring June 30, 1993, or until his successor is duly appointed and qualified.

RESOLUTION BOOK NO. 18 - PAGE 275

I. **Meeting Cancellations - November 20, 1990 - Thanksgiving Week, and December 4, 1990 - National League of Cities Meeting.**

Upon motion of Vice-Mayor Moore, seconded by Councilman Frank, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

A. **Resolution declaring whether portions of Porter Street, Atkin Avenue and an unnamed alley are part of the Street Plan of the City of Asheville adopted pursuant to N. C. Gen. Stat. sec. 136-66.2.**

City Attorney William F. Slawter explained the procedure whereby a developer may withdraw from dedication platted streets that have not been made part of a future street shown on the Street Plan adopted pursuant to N. C. Gen. Stat. sec. 136-66.2.

Upon inquiry of Mr. Steve Barden, attorney, City Manager Bean stated that the above-referenced streets are not part of the City's Street Plan.

Mr. Barden asked that Council adopt this resolution stating that these streets are not part of the City's

Street Plan. He stated that the abutting property owners currently have a shed and a mobile home on these streets and said that when this resolution is adopted, these streets would be subject to taxation, which they at the present time are not. He said the plat was recorded in 1893 and the land doesn't look like that anymore.

Councilman Ellison felt that if the adoption of this resolution would be of benefit to some people that he would be interested in hearing from the people that it would adversely affect.

Mr. James Ewing, Director of Public Works, said that a visual inspection was done and they only saw a CP&L pole there indicating that there was at least one utility company that would be interested in the adoption of this resolution.

Council members had some concerns about existing utilities located in the right-of-way of these streets (because perhaps they felt it was a City street). and felt that they could not adopt this resolution until City staff determined what utilities are in that area and advise those companies of this resolution being requested.

Mr. Barden requested that the resolution reflect that these streets are not part of the City's Street Plan.

It was the consensus of Council to continue this matter until November 27, 1990.

B. Planning and Zoning Commission Report

1. Lakeview Mobile Home Park

Mr. Gerald Green, Senior Planner, said that the Asheville Planning and Zoning Commission on November 7, 1990, reviewed and recommended approval of the site plan with two contingencies. One of the contingencies being approval by the City Council of a variance to permit the placement of seven mobile homes on a site of 47,700 square feet. The other contingency is that all relocated mobile homes shall be at least 20 feet from internal streets.

Councilman Price moved to schedule a public hearing on this matter for November 27, 1990. This motion was seconded by Councilman Ellison and carried unanimously.

2. Haw Creek Heights

Mr. Gerald Green, Senior Planner, said that the Asheville Planning and Zoning Commission on November 7, 1990, reviewed and recommended approval of the site plan with one contingency. That contingency being the approval by the City Council of a variance to permit the location of two buildings, as shown on the revised plan dated August 13, 1990, within 30 feet of the edge of the street.

Councilman Price moved to schedule a public hearing on this matter for November 27, 1990. This motion was seconded by Vice-Mayor Moore and carried unanimously.

C. **Approval of bids on asbestos removal.**

City Manager Bean stated that the 3rd and 4th floors of the City Hall Building are ready to be renovated and asbestos has been found on those floors. Five bids have been received and he recommended the City awarding the bid to the lowest bidder, NEO Corporation in Waynesville, N.C., in the amount of $58,276.

Councilman Price moved to award the bid for asbestos removal to NEO Corporation in Waynesville, N.C., in the amount of $58,276. This motion was seconded by Vice-Mayor Moore and carried unanimously.

D. **Report on Outside Agency Funding Process**

Councilman Ellison stated that outside agencies which desire funding for a particular fiscal year must follow specific procedures and submit a completed application package to the City staff prior to being considered. He said that agencies which request funds must adhere to a time frame which will be in concert with the City's annual operating budget process. He stated that all agencies which apply for funds will be reviewed and screened annually by a Council committee appointed to review agency requests. He said that the Committee will make its recommendations on which agencies should be funded to the full Council for its consideration.

Councilman Ellison said that these procedures will be available by contacting the City Manager's Office or the Public Response Center.

E. **Asheville High Football Program**

Councilman Ellison requested the Mayor send a letter to Coach Fogle and his staff prior to Friday night's game

expressing how proud the City of Asheville is that they are 6th in the State of North Carolina and how much recognition they have brought to our City. He felt that the efforts of the athletes and entire coaching staff was outstanding.

At 5:20 p.m. the Council recessed the meeting and Mayor Michalove announced that the Council would reconvene at 7:00 p.m. later that evening at Enka Middle School for the public hearing on the question of the annexation of the West area.

The Council reconvened at 7:00 p.m. at Enka Middle School. Mayor Michalove, Councilmen Frank and Price were present. Councilmen Bratton, Ellison and Estes and Vice-Mayor Moore were not present, having withdrawn from the meeting without being excused by a majority vote of the remaining members present. Councilman Bratton was attending a conference in Durham, North Carolina, sponsored by the North Carolina Mutual Life Insurance Company; Councilman Ellison was expected to be delayed because this was his last Lamaze class; Councilman Estes was expected to be delayed since he was attending a judging at the Western North Carolina Development Association; and Vice-Mayor Moore was unable to return to the meeting because he had a previous teaching engagement at Highlands.

The City Clerk presented the notice to the public setting the time and date of the public hearing and the affidavit of publication.

Mayor Michalove stated that this public hearing was scheduled relative to the annexation of an area known as the West area. He stated that since there were only three members of Council physically present, comments would be heard at this time but the public hearing would be continued until November 27, 1990.

Ms. Patty Tallerday, Senior Planner, said that in North Carolina when areas are developed for urban purposes, city limit boundaries may be extended to include those areas. She said that these areas to be incorporated into the city must meet strict tests to be able to define them as urbanly developed. By use of a map she then described the boundaries of the area proposed to be annexed.

She said that the total external boundary of the area is approximately 49,020 feet of which approximately 7,000 feet or 14% coincides with the present City of Asheville boundary. Therefore, at least one-eighth of the total boundary of the area under consideration touches the Asheville city limits. She stated that the area does qualify as being urbanly developed in that of the 676 lots in the area, 560 or 82% are used for some developed purpose, such as residential, commercial, industrial, institutional

or governmental. She said that in addition, 63.7% of the total acreage of land that is used for residential purposes or is vacant is divided into lots of five acres or less in size. She said that 415 acres out of 652 acres are divided into these smaller lots.

Ms. Tallerday stated that upon the effective date of annexation the City will provide to the west area the same level of City services as is provided presently in the City of Asheville. She said that with the exception of water and sewer lines, which will be in place within two years of the effective date of annexation, all other major City services will commence on the actual date of annexation. She stated that these services include police protection, fire protection, street maintenance services, street lighting and sanitation collection.

She stated that upon the effective date of the annexation, a full range of police services will be provided to the area on the same basis and in the same manner as provided within the rest of the City. She said that additional personnel and equipment will be added to the Asheville Police Department to provide regular patrol services, criminal investigation, community relations/crime prevention services, ordinance enforcement and traffic control.

In the area of fire protection, the City is prepared to offer to negotiate a five year contract with the Enka-Candler Fire and Rescue Department which is presently servicing the proposed annexation area to continue to service the area. A written request to negotiate a five year contract has been submitted to the City by Chief Haney of the Enka-Candler Fire and Rescue Department. She said that in the event a contract is signed, response for emergencies will be provided by both the Enka-Candler Fire and Rescue Department from its location on Pisgah Highway and primary response from City of Asheville Fire Station #6. She said plans call for relocation of Fire Station #6 from Haywood Road to a site on the Smoky Park Highway corridor, closer to the west area. She said that upon annexation, property owners in the area will no longer pay the 8 cents Enka-Candler Fire District tax.

Ms. Tallerday said that currently the west area is serviced by a private solid waste collection company. She said that upon the effective date of annexation the City will provide solid waste collection services of residential refuse on a weekly basis at curbside. She said special "set out" service to curbside is available for qualified elderly and handicapped individuals. She also said that special collections of loose leaves and tree trimmings placed at curbside are made periodically.

Street improvements and maintenance will be provided to the approximately 7.6 miles of state system streets in the area that transfer to the City's system. She said maintenance activities for City streets include resurfacing of public streets, scraping, stoning and paving of unpaved public streets, pothole repair, snow and ice removal and trimming of vegetation on public rights-of-way. She said owners of private or non-state maintained streets may request the City Council to dedicate them as public streets and receive maintenance services. Private streets must meet City street construction standards before they can be dedicated, however, an agreement to share the cost of upgrading the street can be arranged between the City and private parties.

She said that the City will install and maintain additional street lights along public streets, approximately every 250 feet unless otherwise requested and will assume the cost of lighting and maintaining street lights located on public streets.

By use of a map, Ms. Tallerday pointed out the existing and proposed water lines for the area under consideration. She stated that there is an existing 18" water line along Sand Hill Road, 12" water lines along Monte Vista Road, Moody Avenue and Highway 19-23 and 6" water lines along Asbury Road and Highway 19-23. She said adjacent streets are served with 6" and 2" lines. She said improvements to this area will include 22,385 additional feet of 6" or 8" water lines along Grandview Road, Selwyn Road, Acton Circle, Acton Woods Road, Holcome Road, Old Haywood Road, Knoll Ridge Road and Highway 19-23. She said fire hydrants will be added to existing and proposed water lines as necessary to provide adequate fire protection.

By use of a map, Ms. Tallerday pointed out the existing and proposed sewer lines for the area under construction. She said the area is served by a 27" Hominy Creek Interceptor, the 18" Ragsdale Creek Interceptor as well as 8" collection sewers. She said an additional 29,160 feet of 8" sewer line improvements will be needed to serve the area. The majority of new lines will be constructed along Monte Vista Road, Acton Circle, Acton Woods Road west of Highway 19-23, along Pritchard Road, Mayfair Drive and Crestwood Lane and along portions of Sand Hill Road and Gudger Road. She said construction of water and sewer lines will be completed within two years of the effective date of annexation.

Mayor Michalove stated that the proposed annexation of this area is not new. He said that this is the same area proposed to be annexed two years ago, except for a large tract of land which is undeveloped.

Mr. Bob Heyward, 15 Mayfair Drive, spoke in opposition of the annexation stating that the people in that area chose to

live in the County and not the City. He felt that nothing the City could offer would offset the tax burden the residents will incur.

Mr. George Robinson, who resided at 8 Hemlock Drive and now lives on Grandview Road, said that several years ago Hemlock Drive was brought into the City and he was under the impression that it would be paved and to date the paving still has not taken place. He was opposed to this annexation.

City Manager Doug Bean explained that at the time of annexation if the street is a state maintained street, the City will accept it into the City system and maintain. He said, however, that if it is a private street, at the time of annexation, the City will accept it after it has been brought up to City standards and accepted into the City system.

Mayor Michalove said that City staff would investigate that particular question and have a response for Mr. Robinson at the November 27 meeting.

Mr. Clint Jones, resident in Buncombe County, spoke in opposition to the proposed annexation stating that the residents in the proposed area should be allowed to vote on whether or not they want to be annexed.

Mr. Bean explained the State law summarizing that a city has the authority and right to extend their boundaries so long as they meet stringent requirements.

Mr. Buddy Gooden, 24 Glencliff Road, spoke in opposition of the proposed annexation. He stated that his business was annexed into the City of Asheville in 1983 and feels that he is not being given the amount of police protection promised. He felt that the City should not be able to annex again if they can't service the areas presently in the City.

Mr. Howard Parr, 33 Mayfair Drive, spoke in opposition to the proposed annexation. He stated that the only good thing would be that they would be able to vote in the next City Council election.

Mr. Ben Pace, owner of Country Food Stores, spoke in opposition to the proposed annexation stating that he feels the small businesses will be hurt the most by this annexation due to the large amount of taxes (in particular for him, privilege license taxes).

At this time (7:40 p.m.) Councilman Ellison returned to the meeting.

Mr. W. V. Henry spoke in opposition to the proposed annexation. He questioned some statements made in the newspapers relative to this proposed annexation.

At this time (7:42 p.m.) Councilman Estes returned to the meeting.

Mr. Keith Herman, 270 Asbury Road, spoke in opposition to the proposed annexation. He felt the City already had numerous streets to repair, without annexing more. He felt snow and ice removal was not sufficient and also felt the City needed to repair our present water and sewer lines before annexing more. He stated that the privilege tax was just a way to generate revenue. He felt City ordinances, in particular the sign ordinance and the ordinance relative to certificate of occupancies, were unreasonable.

Mr. Carlie Fender, Moody Avenue, spoke in opposition to the proposed annexation stating that the high taxes after being annexed would be too much of a burden for many people to bear.

Mr. Tom Thrash, 15 Monte Vista Road, spoke in opposition to the proposed annexation stating that the proposed area does not meet the requirements of an annexation.

Upon inquiry of Mr. Leon Hall relative to Councilman Estes thoughts on annexation, he explained that he recognizes that if Asheville did not grow (through annexation) it would wither and the areas in Buncombe County would wither with it. He felt there should be a method or way people would want to be part of an annexation. He said he has seen many cities in North Carolina grow because of annexation and he has seen the City of Asheville grow (by building the Asheville Airport and major medical facilities), he would have to vote in favor of annexation. He did feel, however, that the City might be moving too fast in their annexation process and felt more thought needed to be given to it. He spoke in support of the consolidation of City and County governments.

Councilman Ellison assured the public that in his mind, no decision has yet been made to annex this area or not. He said he would listen to the public, listen to the City and then make a decision, which might not be an easy one, but one which he would make only after listening to all concerned.

Councilman Ellison moved to continue the public hearing regarding the annexation of the West Area until 4:00 p.m. on November 27, 1990, in the City Council Chambers, without further advertisement. This motion was seconded by Councilman Price and carried unanimously.

H. M. Nicholson
MAYOR

William D. Nolcott
CITY CLERK

Regular Meeting - November 20, 1990

NO MEETING - THANKSGIVING WEEK

W. M. Nicholson
MAYOR

CITY CLERK

Tuesday - November 27, 1990 - 4:00 p.m.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Wilhelmina Bratton, Mary Lloyd Frank, Norma T. Price, Eugene W. Ellison and William W. Estes; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

The invocation was given by Vice-Mayor Moore.

APPROVAL OF THE MINUTES

Mayor Michalove announced that the minutes of the November 13, 1990, meeting would be approved at the December 11, 1990, meeting.

STUDENT REPRESENTATIVE - ASHEVILLE HIGH SCHOOL

Charles Penny, Assistant City Manager, recognized Ms. Sally Fisher, a junior at Asheville High School, who has been chosen as the City's student representative. She will be attending the Council meetings and observing City government.

I. PROCLAMATIONS:

A. B*E*S*T QUARTERLY AWARD

Doug Bean presented Ms. Kim Warren and Mr. Scott Lunsford, employees from the Police Department, with awards as being chosen the B*E*S*T quarterly winners. Ms. Warren and Mr. Lunsford took care of a 2-1/2 year old child while the Department of Social Services made arrangements for him to be picked up. Ms. Warren took the child with her for the night, after obtaining appropriate authority to do so, while the Department of Social Services made these arrangements.

B. RECOGNITION OF WATER MAINTENANCE TAPPING TEAM

Harold Huff, Director of Water, Wastewater and Engineering Services, recognized Mr. Pete Raushenplat, Mr. Dennis Morgan, Mr. John W. Collins and Mr. Greg Allen as the Water Maintenance Tapping Team. He presented the team with awards as well as a jacket.

Mr. Huff, stated that the American Water Works Association/Water Pollution Control Federation sponsor state and

national water tapping contests each year. This year's contest, held in High Point earlier, was won by the City of Asheville's Water Maintenance Tapping Team. The City of Asheville has won this award for the 4th consecutive year. He said that the tapping team will be representing the City of Asheville and North Carolina at the national contest to be held in Philadelphia, Pennsylvania, in June of 1991.

C. PROCLAMATION PROCLAIMING DECEMBER 1, 1990, AS "WORLD AIDS DAY."

Mayor Michalove proclaimed December 1, 1990, as "World Aids Day" in the City of Asheville and presented the proclamation to Ms. Ann Biedelman, Chairman of the Buncombe County Aids Commission.

II. PUBLIC HEARINGS:

A. CONTINUATION OF A PUBLIC HEARING RELATIVE TO ANNEXATION OF AN AREA KNOWN AS THE WEST AREA.

Mayor Michalove said this public hearing was originally scheduled for November 13, 1990, at the Enka Middle School. Due to conflicts in the schedules of several Council members, an announcement was made at the Enka Middle School meeting on November 13 that comments from interested persons would be taken, but that the public hearing would be continued until today. He said that after receiving comments from all persons wishing to address the members of Council present on November 13, the Council adopted a motion to continue the public hearing until today.

Mayor Michalove opened the public hearing at 4:24 p.m.

Ms. Patty Tallerday, Senior Planner, described the boundaries of the area proposed to be annexed by using a map, and explained the report of the Plan for the Extension of Major Municipal Services for the proposed annexation area..

She said that the total external boundary of the area is approximately 49,020 feet of which approximately 7,000 feet or 14% coincides with the present City of Asheville boundary. Therefore, at least one-eighth of the total boundary of the area under consideration touches the Asheville city limits. She stated that the area does qualify as being urbanly developed in that of the 676 lots in the area, 560 or 82% are used for some developed purpose, such as residential, commercial, industrial, institutional or governmental. She said the area is also subdivided into lots and tracts and 63.7% of the total acreage of land that is used for residential purposes or is vacant and divided into lots of five acres or less in size. She said 415 acres out of 652 acres are divided into these smaller lots.

Ms. Tallerday stated that upon the effective date of annexation the City will provide to the west area the same level of City services as is provided presently in the City of Asheville. She said that with the exception of water and sewer lines, which will be in place within two years of the effective date of annexation, all other major City services will commence on the actual date of annexation. She stated that these services include police protection, fire protection, street maintenance services, street lighting and sanitation collection.

She stated that in the area of police protection, additional personnel and equipment will be added to the Asheville Police Department to provide regular patrol services, criminal investigation, community relations/crime prevention services, ordinance enforcement and traffic control.

In the area of fire protection, the City is prepared to offer to negotiate a five year contract with the Enka-Candler Fire and Rescue Department which is presently servicing the proposed annexation area to continue to service the area. A written request to negotiate a five year contract has been submitted to the City by Chief Haney of the Enka-Candler Fire and Rescue Department. She said that in the event a contract is signed, response for emergencies will be provided by both the Enka-Candler Fire and Rescue Department from its location on Pisgah Highway and primary response from City of Asheville Fire Station #6.

Ms. Tallerday said that currently the west area is serviced by a private solid waste collection company. She said that upon the effective date of annexation the City will provide solid waste collection services of residential refuse on a weekly basis at curbside. She said special "set out" service to curbside is available for qualified elderly and handicapped individuals.

Street improvements and maintenance services will be provided to the approximately 7.6 miles of state system streets in the area that transfer to the City's system. She said maintenance activities for City streets include resurfacing of public streets, scraping, stoning and paving of un-paved public streets, pothole repair, snow and ice removal and trimming of vegetation on public rights-of-way. She said owners of private or non-state maintained streets may request the City Council to dedicate them as public streets and receive maintenance services.

She said that the City will install and maintain additional street lights, signage and traffic control devices.

By use of a map, Ms. Tallerday pointed out the existing and proposed water lines for the area under consideration. She said improvements to this area will include 22,385 additional feet of 6" or 8" water lines along Grandview Road, Selwyn Road, Acton Circle, Acton Woods Road, Holcome Road, Old Haywood Road, Knoll Ridge Road and Highway 19-23.

By use of a map, Ms. Tallerday said an additional 29,160 feet of 8" sewer line improvements will be needed to serve the area. The majority of new lines will be constructed along Monte Vista Road, Acton Circle, Acton Woods Road west of Highway 19-23, along Pritchard Road, Mayfair Drive and Crestwood Lane and along portions of Sand Hill Road and Gudger Road.

Mayor Michalove stated that there were several questions asked at the November 13 meeting and at that time he stated that the City would investigate each concern and report today their results. He then asked the City Manager to summarize the questions and responses.

Mr. Bean said that a question was raised concerning Hemlock Drive not being paved and it being in the City for a number of years. He said that Hemlock Drive is a paved City maintained street. There is a private road or driveway off of Hemlock Drive that has gravel on it and the City has no record of any petition requesting the City to take over maintenance of that street.

A statement was made at the earlier public hearing about the number of police officers assigned to the west Asheville area. A report from Police Chief Gerald Beavers states that at no time does the Police Department assign only one vehicle to west Asheville. A minimum of three vehicles are assigned per shift and depending upon available manpower, there may be more assigned to the area. A detective is also assigned to the west area.

With regard to the question of snow and ice removal on Thompson Street, the City Manager said that the operation of snow and ice removal is based upon three priorities. Priority 1 streets are bus routes, major City maintained streets and secondary North Carolina Department of Transportation maintained streets that are not serviced by the state. Priority 2 streets are basically collector streets and priority 3 streets are residential streets.

With regard to the question concerning privilege license fees, the City Manager explained that in 1989 the revenue ordinance revision changed the method in which rates were calculated to a percentage of gross receipts. He said the new rate structure was phased in over a two year period.

A question was raised at the November 13 meeting about property annexed in 1983 and not receiving sewer services. He said the location was checked and the closest sewer line is on the opposite side of a railroad track. He said that in order to provide sewer service at the address the City would have to acquire an easement from the railroad to place the line under the track. He said that the line would then have to be encased, which would make the installation of this sewer line a very expensive proposition.

Upon request of Mayor Michalove, City Attorney William Slawter explained that the City Council meeting convened at 4:00 p.m. on November 13, 1990, recessed at 5:20 p.m., to be reconvened at 7:00 p.m. on November 13, 1990, at Enka Middle School. He said that three members of Council were physically present and the other members were not excused and therefore deemed to be present. Nevertheless, since only three members were physically present at 7:00, the Council decided to continue the public hearing until November 27.

Mr. Bill Best, Acton Circle, spoke in opposition to the proposed annexation. He stated that this was not the right time to annex this property and felt the City was not ready for the added responsibility.

Mr. W. V. Henry spoke in opposition to the proposed annexation stating that he felt the people had no voice in whether or not they wanted their property annexed.

Mr. Ralph Bishop spoke in opposition to the proposed annexation stating that he felt the Council has already made up their minds to annex this property and raise taxes.

Mayor Michalove closed the public hearing at 4:46 p.m.

Mayor Michalove stated that the first reading of this proposed ordinance would be held on December 11, 1990.

B. PUBLIC HEARING - REVISED SITE PLAN FOR HAW CREEK HEIGHTS.

Mayor Michalove opened the public hearing at 4:47 p.m.

The City Clerk presented the notice to the public setting the time and date of the public hearing and the affidavit of publication.

Mr. Gerald Green, Senior Planner, said that the Asheville Planning and Zoning Commission on November 7, 1990, reviewed and recommended approval of the site plan with one contingency. That contingency being the approval by the City Council of a variance to permit the location of two buildings, as shown on the revised plan dated August 13, 1990, within 30 feet of the edge of the street. He said that due to the surveyor's error, the buildings were constructed too close to the street.

It was the consensus of Council to have staff look into imposing a civil penalty to be levied per day in order to try to cut down on these types of mistakes in the future.

Mayor Michalove closed the public hearing at 4:52 p.m.

Councilman Ellison moved to grant the variance to permit the location of the two buildings, as shown on the revised plan dated

August 13, 1990, within 30 feet of the edge of the street and to approve the site plan. This motion was seconded by Vice-Mayor Moore and carried unanimously.

B. PUBLIC HEARING - SITE PLAN FOR THE LAKEVIEW MOBILE HOME PARK EXTENSION.

Mayor Michalove opened the public hearing at 4:57 p.m.

The City Clerk presented the notice to the public setting the time and date of the public hearing and the affidavit of publication.

Mr. Gerald Green, Senior Planner, said that the Asheville Planning and Zoning Commission on November 7, 1990, reviewed and recommended approval of the site plan with two contingencies. One of the contingencies being approval by the City Council of a variance to permit the placement of seven mobile homes on a site of 47,700 square feet. The other contingency is that all relocated mobile homes shall be at least 20 feet from internal streets.

Mr. Green stated that the Fire Department has a concern that fire protection is not available due to the lack of adequate water pressure in the water line serving the project area. He said that the developer plans to install a fire hydrant, but according to the Fire Department, water pressure is inadequate to serve this hydrant.

Mr. Green stated that based upon the guidelines set forth in the zoning ordinance for mobile home parks, an area of 49,651 square feet is required for 7 mobile homes. He said the project area is 47,700 square feet, therefore, a variance will be required to permit the placement of the 7 mobile homes on the site.

Councilman Price stated that she received a petition containing 28 signatures from the residents of the Lakeview Mobile Home Park, expressing their opposition to the addition of the 7 mobile homes. Councilman Price summarized the residents' concerns as spacing problems, water pressure problems, sewer line problems and grounds upkeep.

Upon inquiry of Councilman Ellison on the number of mobile homes being requested, Mr. George Jensen, consulting engineer for the project, stated that 7 mobile homes were needed to make this group development profitable for the owner, Mr. Lawrence Elbaum.

Vice-Mayor Moore voiced concern over the owner wanting to add more mobile homes to an area that already has inadequate water pressure.

Mr. Jensen stated that the City and the Asheville-Buncombe Water Authority should be responsible for providing adequate

water pressure and felt that the owner should not be punished because the City and the Water Authority are not providing that service.

Upon inquiry of Mayor Michalove, Mr. Slawter explained that when an area is annexed (as is the case of the Lakeview Mobile Home Park), the City is responsible for providing services to that area on the same basis as they are providing services in the existing City boundaries.

Councilman Price expressed concern about the overall mobile home park's spacing.

Councilman Estes voiced concern about the lack of playground space for the children in the area.

Councilman Frank felt that she could not agree to complicate problems that already exist. She asked if the residents of the mobile home park could go to the Fair Housing Commission to get results concerning some of their concerns regarding safety.

City Attorney Slawter stated that there are clear cut statutory options available to the residents if they own their mobile homes.

Councilman Ellison voiced concern about the City having no policy when inadequate water pressure is evident and felt it was unfair for us to punish businesses when there is no policy.

Councilman Bratton voiced concerns from the safety standpoint and stated that the Council is responsible to provide safety to our residents.

Ms. Lin Sitnik spoke in opposition to granting the variance stating that she felt no more mobile homes should be added until the water pressure problems are alleviated.

Mayor Michalove closed the public hearing at 5:30 p.m.

Councilman Ellison moved to grant the variance in order to permit the placement of seven mobile homes on a site of 47,700 square feet. This motion died for a lack of a second.

Vice-Mayor Moore moved to reject the site plan. This motion was seconded by Councilman Bratton and carried on a 6-1 vote, with Councilman Ellison voting "no."

Councilman Ellison suggested that the City adopt a consistent policy regarding water inadequacies and treat everyone on an equal basis. He felt that the City needed to send someone out in any proposed annexation area to see if there is adequate water pressure and asked that the Fire Chief make that assurance. He felt that would be a criteria for him in voting in these matters.

Councilman Frank asked for a report to be furnished to the Council relative to how many locations have inadequate water pressure and what the City is doing about those areas. She also asked for a report on why the City did not do a hydraulic testing of water pressure on the new line that was installed by the mobile home park.

Councilman Price stated that each year 1/2 million dollars is spent on upgrading the existing systems by the Asheville-Buncombe Water Authority.

D. PUBLIC HEARING - ORDINANCE NO. 1879 - ORDINANCE AMENDING SECTION 30-5-15 (CONSERVATION OVERLAY FOR HISTORIC LANDMARKS) OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE.

Mayor Michalove opened the public hearing at 5:38 p.m.

The City Clerk presented the notice to the public setting the time and date of the public hearing and the affidavit of publication.

Mrs. Julia Cogburn, Planning Director, stated that this amendment would allow for the creation of conditional use zoning for historic landmarks. She said that it was discovered, in researching this section, that technical amendments were needed but the basic premise of the section would remain unchanged. She said that this section provides a mechanism whereby a property, which has been designated as an historic landmark by the City, may be zoned with a conditional use zone designation to allow for the use of the property in a manner other than that which is permitted under its current zoning. She said that to grant such a zone it must be determined that the property could not be preserved under the current zoning and that the granting of the conditional use designation enables its preservation. She then explained the procedure for obtaining this designation.

Mrs. Cogburn stated that the ordinance as currently written (1) does not adequately set out the procedure that must be followed in using conditional use zones; (2) provides (improperly) for the protest petition standards on the issuance of the conditional use permit; (3) allows (improperly) conditions to be placed on the serving of alcohol; and (4) allows (improperly) for revocation of a conditional use permit upon transfer of property.

A resident voiced that there needed to be some sort of review process so that the new owner is clearly made aware of the conditions imposed. She also raised a question about what standards would be applied under Section (E) (4) regarding the revocation of the permit, and what procedure would be followed in conducting a public hearing.

Mayor Michalove asked that the Planning staff review the comments made and make any additional wording changes before the second reading.

Ms. Jean Warner, President of the Preservation Society, spoke in support of the proposed ordinance.

Mayor Michalove closed the public hearing at 6:00 p.m.

Mayor Michalove stated that members of Council have previously been furnished with copies of this ordinance and it would not be read in its entirety.

Councilman Bratton moved for the adoption of Ordinance No. 1879. This motion was seconded by Vice-Mayor Moore.

On a roll call vote of 7-0, Ordinance No. 1879 passed on its first reading.

III. OLD BUSINESS:

A. RESOLUTION NO. 90-179 - RESOLUTION DECLARING THAT PORTIONS OF PORTER STREET, ATKIN AVENUE AND AN UNNAMED ALLEY ARE NOT PART OF THE STREET PLAN OF THE CITY OF ASHEVILLE ADOPTED PURSUANT TO N. C. GEN. STAT. SEC. 136-66.2.

City Attorney William F. Slawter explained the procedure whereby a developer can petition the city council to adopt a resolution stating whether streets that the developer has withdrawn from dedication are not part of the City's Street Plan.

Mr. Jim Ewing, Director of Public Works, stated that, pursuant to Council's request from the November 13, 1990, City Council meeting, they contacted all the utilities in subject area and made them aware of Council's intent. He said Southern Bell and Public Service Gas Company have utilities in the right-of-way, there are no water or sewer easements in the subject area and they have not heard back from Carolina Power and Light Company.

Vice-Mayor Moore stated that the City has made every effort to contact the utility companies and property owners to make them aware of Council's intent.

Councilman Ellison moved for the adoption of Resolution No. 90-179. This motion was seconded by Vice-Mayor Moore and carried unanimously.

RESOLUTION BOOK NO. 18 - PAGE 276-277

IV. NEW BUSINESS:

A. RESOLUTION NO. 90-180 - RESOLUTION IN SUPPORT OF MANOR TRUST.

Mayor Michalove stated that this resolution expresses support for the efforts of the Preservation Society of Asheville and Buncombe County in preserving the local historic property known as "The Manor."

Councilman Bratton moved for the adoption of Resolution No. 90-180. This motion was seconded by Councilman Frank and carried unanimously.

RESOLUTION BOOK NO. 18 - PAGE 278 - 279

B. RESOLUTION NO. 90-181 - RESOLUTION PROVIDING FOR THE ISSUANCE OF $3,300,000 STREET AND SIDEWALK BONDS, SERIES 1990.

City Manager Bean stated that this resolution sets forth the details of the bonds as required by N. C. Gen. Stat. sec. 159-65. He said the bonds will be sold pursuant to an order adopted by the City Council on July 22, 1986, which was approved by a vote of the Asheville citizens at a referendum on September 23, 1986. He said the revenue from these bonds will provide additional funding for the City's Street and Sidewalk Improvement Program.

Mayor Michalove said that members of Council have been previously furnished with copies of this resolution and it would not be read in its entirety.

Councilman Estes moved for the adoption of Resolution No. 90-181. This motion was seconded by Councilman Price. The motion was passed by the following vote:

Ayes: Mayor Michalove, Vice-Mayor Moore, Councilmen Bratton, Frank, Price, Ellison and Estes.

Noes: None.

RESOLUTION BOOK NO.18 - PAGE 280 - 312

C. RESOLUTION NO. 90-182 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH TAX MANAGEMENT ASSOCIATES, INC.

Bob Wurst, Audit/Budget Director stated that Buncombe County has entered into an agreement with Tax Management Associates, Inc., to provide for audits of business personal property values. He said that the City will benefit from the discovery of any taxable personal property values resulting from said audits of businesses located within the City. He said that the agreed upon fee for taxes realized from such audits is 35% of the proceeds collected.

Mayor Michalove said that members of Council have been previously furnished with copies of this resolution and it would not be read in its entirety.

Councilman Ellison moved for the adoption of Resolution No. 90-182. This motion was seconded by Vice-Mayor Moore and carried unanimously.

RESOLUTION BOOK NO. 18 - PAGE 313

D. RESOLUTION NO. 90-183 - RESOLUTION AUTHORIZING THE CITY MANAGER OF THE CITY OF ASHEVILLE TO SIGN AN APPLICATION FOR GRANT FUNDS FROM THE COMMUNITY FOUNDATION OF WESTERN NORTH CAROLINA, INC., FOR PARKS AND RECREATION AFTERSCHOOL PROGRAM.

City Manager Bean said that the Afterschool Program began two years ago in cooperation with the Asheville City Schools. He said that recent expansion of the program now includes a total of five elementary schools served by the program. He said that grant funds, in the amount of $5,065, are sought to expend the cultural enrichment opportunities of the 250 children participating in the Afterschool Program, many of which are from low income, socially deprived home environments.

Mayor Michalove said that members of Council have been previously furnished with copies of this resolution and it would not be read in its entirety.

Councilman Price moved for the adoption of Resolution No. 90-183. This motion was seconded by Vice-Mayor Moore and carried unanimously.

RESOLUTION BOOK NO. 18 - PAGE 314

E. RESOLUTION NO. 90-184 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF ASHEVILLE AND DELTA DENTAL PLAN OF NORTH CAROLINA, INC., FOR THE PURPOSE OF CONTINUING DENTAL BENEFITS TO THE CITY OF ASHEVILLE EMPLOYEES, FAMILIES, AND THE STAFF OF THE ASHEVILLE-BUNCOMBE COMMUNITY RELATIONS COUNCIL.

City Manager Bean stated that this resolution would renew the contract with Delta Dental Plan of North Carolina, Inc., from January 1, 1991, through August 31, 1991.

Mayor Michalove said that members of Council have been previously furnished with copies of this resolution and it would not be read in its entirety.

Councilman Ellison moved for the adoption of Resolution No. 90-184. This motion was seconded by Councilman Price and carried unanimously.

RESOLUTION BOOK NO. 18 - PAGE 315

V. CONSENT AGENDA:

A. SCHEDULE PUBLIC HEARING RELATIVE TO NEW ZONING OF RECENTLY ANNEXED - WARD 12, SHEET 24, LOT 80 (RICHMOND HILL) TO OI OFFICE INSTITUTIONAL FOR DECEMBER 11, 1990.

B. SCHEDULE PUBLIC HEARING RELATIVE TO REZONING PROPERTY LOCATED ON RICHMOND HILL DRIVE FROM R-3 RESIDENTIAL DISTRICT TO OI OFFICE INSTITUTIONAL (PETITION OF JAMES E. SAMSEL) FOR DECEMBER 11, 1990.

C. SCHEDULE PUBLIC HEARING RELATIVE TO REZONING PROPERTY LOCATED ON SOUTH LOUISIANA AVENUE FROM R-3 RESIDENTIAL DISTRICT TO CS COMMERCIAL SERVICE DISTRICT (PETITION OF LESTER AND SALLIE SHARP, OWNERS) FOR DECEMBER 11, 1990.

D. SCHEDULE PUBLIC HEARING RELATIVE TO DESIGNATING THE FLAT IRON BUILDING AS A LOCAL HISTORIC LANDMARK FOR DECEMBER 11, 1990.

Vice-Mayor Moore moved for the adoption of the consent agenda. This motion was seconded by Councilman Bratton and carried unanimously.

VI. OTHER BUSINESS:

A. DECEMBER 4, 1990, CITY COUNCIL MEETING CANCELLED.

Mayor Michalove stated that the December 4, 1990, City Council meeting was being cancelled due to the number of Council members attending the National League of Cities - Congress of Cities Conference.

B. COUNCILMAN FRANK

Councilman Frank passed out information relative to the Minority Business Plan.

She asked if the City was currently using recycled paper and the City Manager responded that the City was, as much as possible.

She asked about the legislative briefing and the Mayor stated that the Council members would be meeting about that soon.

C. COUNCILMAN PRICE

Councilman Price passed out a questionnaire relative to transportation and asked that Council members fill it out and return it to the Planning Department.

D. APPOINTMENTS

Mayor Michalove announced that Vice-Mayor Moore and Councilman Frank would be the City Council liaison members for the unified development ordinance.

Mayor Michalove stated that Councilman Estes would continue to be the City Council liaison for normal Planning and Zoning activities.

E. BIRTH

Mayor Michalove and members of Council congratulated Councilman Ellison on the birth of his son.

F. CLAIMS

The following claims were received by the Risk Management Office for the week of November 5 - 9, 1990: St. Mary Episcopal Church and Frances Aiken. These claims have been referred to the appropriate insurers for investigation.

G. LAWSUIT

The City was served with the following lawsuit on November 27, 1990: Charles W. Shipman, personal injury from fall in water meter box. This lawsuit has been referred to the appropriate legal counsel for action.

H. ADJOURNMENT

Mayor Michalove adjourned the meeting at 6:30 p.m.

H. M. Michalove
MAYOR

Rebecca D. Wolcott
CITY CLERK

MEETING FOR DECEMBER 4, 1990

CANCELLED

NATIONAL LEAGUE OF CITIES - CONGRESS OF CITIES CONFERENCE

HOUSTON, TEXAS

DECEMBER 1-5, 1990

H. M. Michaloe

MAYOR

CITY CLERK

Tuesday - December 11, 1990 - 4:00 p.m.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Wilhelmina Bratton, Mary Lloyd Frank, Norma T. Price, Eugene W. Ellison and William W. Estes; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Councilman Frank introduced Miss Gunther, a student from Claxton School, who gave the invocation.

RECOGNITION OF ASHEVILLE HIGH FOOTBALL TEAM

Mayor Michalove introduced Coach David Jones and commented on the fine job the team has done this year. Coach Jones introduced each member of the team and the coaching staff.

Mayor Michalove expressed his appreciation for the team coming to the Council meeting and wished them much success next season.

ASHEVILLE-BUNCOMBE WATER AUTHORITY MEMBERSHIP

Mayor Michalove stated that an item that arose during executive session was the terms of the Asheville-Buncombe Water Authority. He said the purpose of the meeting with the Buncombe County Commissioners was to discuss names of individuals for appointment, their terms of office and consideration of rolling terms that expire on 12/31/90 for an additional 9 months, terms expiring 9/30/91. He said the action taken by the City Council earlier to extend the terms an additional year would need to be amended to reflect the extension of 9 months. He stated that the following names would be considered: Don Williams, Jesse Ledbetter, Norma Price, Richard Wood, Ralph Morris, Robert Brown and George Beverly. He said that the following persons are under consideration by the Asheville City Council for appointment to additional terms to the Asheville-Buncombe Water Authority as of this date: Ralph Morris, Richard Wood and Norma Price.

USS ASHEVILLE

Captain Pat Casey of the USS Asheville presented the members of City Council and the members of the Buncombe County Board of Commissioners with a Glass Christening Photograph of the USS Asheville.

Captain Casey also presented to Ms. Shirley Rogers a check in the amount of $2,500 to the Fostercare Christmas Fund. Ms. Rogers thanked the USS Asheville crew for remembering the foster children in the area.

APPROVAL OF THE MINUTES

Mayor Michalove announced the approval of the minutes of the November 13, 1990, meeting and also the November 27, 1990, meeting.

I. PROCLAMATION:

A. PROCLAMATION - HO HO HOTLINE - NORTH POLE SUBSTATION

Mayor Michalove presented Ms. Natalie Frost a proclamation proclaiming the Hillhaven Rehabilitation and Convalescent Center as Asheville's Official North Pole Substation.

II. PUBLIC HEARINGS:

A. CONTINUATION OF A PUBLIC HEARING RELATIVE TO REZONING PROPERTY LOCATED ON FOREST HILL DRIVE - MEMORIAL MISSION HOSPITAL, OWNER

Mayor Michalove stated that a request had been received from Mr. Robert Burgin, President of Memorial Mission Medical Center, asking for a continuance of this public hearing until February 12, 1991. The letter stated that this time is being requested so they can arrange a meeting with the Kenilworth neighborhood for the purpose of resolving their concerns regarding medical center plans, and to allow the medical center adequate time to prepare a comprehensive presentation to the City Council and the Association.

Vice-Mayor Moore moved to continue the public hearing until February 12, 1991, without further advertisement. This motion was seconded by Councilman Bratton and carried unanimously.

B. ORDINANCE NO. 1880 - PUBLIC HEARING RELATIVE TO NEW ZONING OF RECENTLY ANNEXED AREA - WARD 12, SHEET 24, LOT 80 (RICHMOND HILL INN) TO OI OFFICE INSTITUTIONAL DISTRICT

Mayor Michalove opened the public hearing at 4:43 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing and the affidavit of publication.

Carol Alberice, Urban Planner II, stated that the Asheville Planning and Zoning Commission, on November 7, 1990, reviewed and recommended new zoning for the recently annexed Richmond Hill Inn property to OI Office Institutional. She said this is a 7 acre site with City zoning that was recently annexed by petition. She

said the OI Office Institutional classification is seen as appropriate by the Planning staff due to the current use by the Richmond Hill Inn.

Mayor Michalove closed the public hearing at 4:45 p.m.

Mayor Michalove stated that the ordinance has been previously furnished to Council and it would not be read in its entirety.

Mayor Michalove stated that a letter has been received by Mr. James Samsel requesting that Council consider this item and the rezoning issue (which is the next item on Council's agenda) on all three readings today. He also requested that Council consider the group development issue at this meeting also.

Mrs. Alberice stated that the group development issue of which Mr. Samsel is talking about is scheduled for Council consideration on 12/18/90.

Councilman Price saw no problem with considering this new zoning issue on all three readings, however, she felt the rezoning issue should be handling like all other rezoning matters - three readings on three different days. She did say, however, that since the meeting on 12/18/90 was the last meeting until 1/8/91, there would be a possibility that Council would consider the second and third readings on 12/18/90.

Vice-Mayor Moore moved to zone Ward 12, Sheet 24, Lot 80 (Richmond Hill Inn) to OI Office Institutional. This motion was seconded by Councilman Frank.

On a roll call vote of 7-0, Ordinance No. 1880 passed on its first reading.

Councilman Ellison moved to suspend the rules and proceed to the second reading of Ordinance No. 1880. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1880 passed on its second reading.

Councilman Ellison moved to suspend the rules and proceed to the third reading of Ordinance No. 1880. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1880 passed on its third and final reading.

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C. ORDINANCE NO. 1881 - PUBLIC HEARING RELATIVE TO REZONING PROPERTY LOCATED ON RICHMOND HILL DRIVE FROM R-3 RESIDENTIAL DISTRICT TO OI OFFICE INSTITUTIONAL DISTRICT (PETITION OF JAMES E. SAMSEL)

Mayor Michalove opened the public hearing at 4:50 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing and the affidavit of publication.

Carol Alberice, Urban Planner II, stated the Planning and Zoning Commission, at its November 7, 1990, meeting, reviewed and recommended approval of rezoning of property located on Richmond Hill from R-3 Residential District to OI Office Institutional. She stated that this is a 1.37 acre piece of property.

Mr. James Samsel, representing the Education Center, spoke briefly about a variance that will be requested at the 12/18/90 Council meeting.

Mayor Michalove closed the public hearing at 4:55 p.m.

Mayor Michalove stated that the ordinance has been previously furnished to Council and it would not be read in its entirety.

Councilman Ellison moved to rezone Ward 6, Sheet 31, Lot 182 (Richmond Hill) from R-3 Residential District to OI Office Institutional. This motion was seconded by Vice-Mayor Moore.

On a roll call vote of 7-0, Ordinance No. 1881 passed on its first reading.

Councilman Ellison moved to suspend the rules and proceed to the second reading of Ordinance No. 1881. This motion was seconded by Councilman Estes.

On a roll call vote of 2-5, with Mayor Michalove, Vice-Mayor Moore, Councilmen Price, Frank, and Bratton voting "no," the motion was defeated.

It was the consensus of Council to consider the second and third readings at the next Council meeting.

D. ORDINANCE NO. 1882 - PUBLIC HEARING RELATIVE TO REZONING PROPERTY LOCATED ON SOUTH LOUISIANA AVENUE FROM R-3 RESIDENTIAL DISTRICT TO CS COMMERCIAL SERVICES DISTRICT (PETITION OF LESTER AND SALLIE SHARP, OWNERS)

Mayor Michalove opened the public hearing at 4:57 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing and the affidavit of publication.

Carol Alberice, Urban Planner II, said the Asheville Planning and Zoning Commission, at its November 7, 1990, meeting,

reviewed and recommended approval of rezoning Ward 6, Sheet 9, Lots 76-1/4 and 258 (southern portion) located on South Louisiana Avenue from R-3 Residential District to CS Commercial Service District. She said the rezoning request involves one lot facing Louisiana Avenue and a portion of a lot internal to the block north of the Old Winn Dixie site at the corner of Haywood Road and South Louisiana Avenue. She gave a brief history of the attempted rezoning of Lot 258 and stated that there has been opposition from the adjoining property owners, i.e. increased traffic, spot zoning, etc.

Upon inquiry of Council, Mrs. Alberice stated that the Planning staff recommended denial of this rezoning because it was not in compliance with the comprehensive plan. She stated that the Planning and Zoning Commission approved the rezoning on a 4-2 vote.

Mr. Gordon Myers of Commercial Developers Inc. passed out pictures of the location and stated that this was an .83 acre tract on Louisiana Avenue. He stated that they will be building a new 32,000 square foot Ingles on the old Winn Dixie site. He stated that the portion of Lot 258 they are asking to be rezoned is vacant and a haven for vagrants. He said the developer will be taking out a vacant lot and making it an investment. He said the Ingles will employ approximately 50 people. He said that they have talked to a lot of the neighbors in the area and feel that if they passed a petition around to rezone this location, the neighbors would sign. He stated that Ingles is trying to make a major improvement in that area.

Mr. David Purcell, 25 Jarrett Street, spoke against the rezoning of the vacant lot. He stated that it was not in the 2010 Plan, the area has been like that for many years and he sees no reason to change, drainage from the parking lot onto Jarrett Street is already bad, Ingles has done nothing to clean up the old site and fix the fences and there will be more traffic and noise in the area. He stated that there were only vagrants on the vacant lot and felt that if the City Police Department would do something about that, they wouldn't have a problem at all. He did state, however, that he was not opposed to Ingles putting up a new store only on the old Winn Dixie site.

Ms. Mildred Case, 36 Louisiana Avenue, spoke in favor of the rezoning. She felt that Ingles would not let their property get dilapidated like the Winn Dixie store did and felt that a grocery store was badly needed in that area.

Mr. Myers stated that the drainage problem Mr. Purcell spoke about would be solved, not added to, with the building of this new Ingles. He stated that all of the items would be considered in the group development process.

Councilman Price stated that she would be supportive of this rezoning because west Asheville is in need of a modern grocery

store. She did, however, express concern about going into a residential neighborhood and stated that she would be looking into different aspects in the group development process.

Mayor Michalove closed the public hearing at 5:26 p.m.

Mayor Michalove stated that the ordinance has been previously furnished to Council and it would not be read in its entirety.

Councilman Bratton moved to rezone Ward 6, Sheet 9, Lots 76-1/4 and 258 (southern portion) located on South Louisiana Avenue from R-3 Residential District to CS Commercial Service District. This motion was seconded by Councilman Price.

On a roll call vote of 6-1, with Vice-Mayor Moore voting "no", Ordinance No. 1882 passed on its first reading.

Vice-Mayor Moore felt that there was no compelling reason to rezone this property. He felt the problem with vagrants was strictly a police problem.

Councilman Ellison stated that he would be in favor of proceeding with the other two readings of this ordinance on December 18, 1990. This was echoed by Councilman Bratton.

E. PUBLIC HEARING RELATIVE TO DESIGNATING THE FLAT IRON BUILDING AS A LOCAL HISTORIC LANDMARK

Mayor Michalove opened the public hearing at 5:28 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing and the affidavit of publication.

Kent Newell, Director of the Historic Resources Commission, stated that the Flat Iron Building, which was constructed in 1926, is an excellent example of Commercial Classical Revival Architecture popularized in the first quarter of the 20th Century. He said the structure reflects significant transitional elements including Sullivanesque and Art Deco details. He said the structure housed many of Asheville's professionals including Douglas Ellington, Henry Gaines and Beacham & LaGrand architectural firms. He said the Historic Resources Commission, at the request of Midtown Development Associates, owner of the structure, has studied the Survey and Research Report as submitted by Midtown Development Associates' consultant and determined the building to be eligible for designation as a local historic property. He said the North Carolina Department of Cultural Resources concurs with the Commission's nomination. He said that in 1988, the property brought in $6,600 in taxes, in 1989, $7,500 in taxes and in 1990, $11,500 in taxes.

Upon inquiry of Councilman Ellison, Mr. Newell stated that there is currently 22 local historic landmarks in the City.

Councilman Ellison expressed concern over the effect of the tax base when a building is designated as a local historic property. He feels that the City counts on that tax money and doesn't feel comfortable when we raise other people's taxes and give a tax break to owners of local historic properties.

Vice-Mayor Moore also expressed concern over the lost tax revenue.

Councilman Price asked staff for a list of local historic landmarks in the City and in the County.

Vice-Mayor Moore asked staff for a list of properties that might be considered for the local historic landmark designation and their ranking on that list.

Councilman Bratton suggested setting up a committee to look into the specifics of these designations and the need to work closer with the Historic Resources Commission.

Mayor Michalove suggested that staff look at the surrounding properties of the current local historic landmarks and see if there are any changes in them that might bring about an additional tax base for the City.

Councilman Ellison moved to continue the public hearing, without further advertisement, until December 18, 1990, in order to give staff time to gather up information requested by Council. This motion was seconded by Councilman Estes and carried unanimously.

III. OLD BUSINESS:

A. **ORDINANCE NO. 1883 - AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO AN AREA KNOWN AS THE WEST AREA UNDER THE AUTHORITY GRANTED BY PART 3, ARTICLE 4A, CHAPTER 160A OF THE GENERAL STATUTES OF NORTH CAROLINA**

Mayor Michalove stated that the ordinance has been previously furnished to Council and it would not be read in its entirety.

Mayor Michalove said the public hearing was originally scheduled for November 13, 1990, at the Enka Middle School. Due to conflicts in the schedules of several Council members, an announcement was made at the Enka Middle School meeting on November 13 that comments from interested persons would be taken, but that the public hearing would be continued until November 27. He said that after receiving comments from all persons wishing to address the members of Council present on November 13, the

Council adopted a motion to continue the public hearing until November 27.

Jim Ewing, Director of Public Works, showed Council members a video of some of the streets in the proposed annexation area.

Councilman Price said that, upon her request, the City Manager has obtained some information relative to the effect of annexation on the City's financial condition (all annexations effective since 1981). By use of that information, she stated that annexation does not really pay for the cost of services. She stated that the public is incorrect when they think the City only annexes for taxes because the majority of the funds the City receives are not property taxes, but state-shared revenues.

Councilman Bratton stated that other revenues come to cities because of their size, i.e. Community Development Block Grant funds.

Councilman Ellison felt the City needed to articulate better our reasons for annexation and let the people participate in the annexation process more in the future.

Councilman Frank stated that approximately 9 years ago, the City could annex within 6 months but the Council then voluntarily extended the timeframe to 12 months in order to give the public ample time to participate and let them know what the City was considering.

Mr. W. V. Henry, spoke against annexation in the proposed area. He spoke of a county-wide boycott of the City of Asheville.

Mr. Ben Pace, owner of Country Food Stores, spoke in opposition of the proposed annexation stating that it would hurt the small businesses in the area most and will probably put some out of business.

Mayor Michalove commented on all the nonprofit organizations in the City of Asheville (hospitals and churches) that are all receiving City services but not paying taxes. He also stated that the City has to participate in maintaining rights-of-way of State maintained roads. He said that County residents use the nonprofit facilities in the City and also travel on State maintained roads in the City.

Vice-Mayor Moore moved for the adoption of Ordinance No. 1883. This motion was seconded by Councilman Bratton.

On a roll call vote of 7-0, Ordinance No. 1883 passed on its first reading.

Vice-Mayor Moore moved to suspend the rules and proceed to the second reading of Ordinance No. 1883. This motion was seconded by Councilman Bratton.

Councilman Ellison questioned why there was going to be a second reading on this ordinance at this meeting when the Council has not considered the second readings of any other ordinance at this meeting.

Vice-Mayor Moore and Councilman Bratton withdrew their motion.

B. SECOND READING OF ORDINANCE NO. 1879 - AN ORDINANCE AMENDING SECTION 30-5-15 (CONSERVATION OVERLAY FOR HISTORIC LANDMARKS) OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

Julia Cogburn, Planning Director, summarized the issues expressed at the public hearing held on November 27, 1990.

Councilman Ellison moved to amend Ordinance No. 1879, as follows:

Section 30-5-15 (E) (2)

"In the event the property is transferred, the property shall remain zoned under these provisions and shall be subject to the conditions of the conditional use permit. The property owner making the transfer shall provide the City Planning Department with notice of the transfer of property within ninety days of such a transfer. The property may not be used for any purposes other than those allowed under the conditions of the rezoning and conditional use permit granted hereunder unless the property owner requests an amendment, new permit or rezoning as described hereinabove."

Section 30-5-15 (E) (4)

"Upon a showing of any violation of the conditions of the conditional use permit or other City regulations affecting the use of the subject property, the City Council shall have the authority to revoke the conditional use permit. In that event, City Council shall also rezone the property to a general use district. Prior to the revocation of a conditional use permit, City Council will hold a public hearing on the matter with an opportunity for the property owner and other interested parties to be heard."

This motion was seconded by Vice-Mayor Moore.

On a roll call vote of 7-0, Ordinance No. 1879 passed on its second reading.

III. NEW BUSINESS;

A. ORDINANCE NO. 1884 - AN ORDINANCE REPEALING ORDINANCE NO. 1567, AS AMENDED BY ORDINANCE NOS. 1687 AND 1861, KNOWN AS AN

ORDINANCE ESTABLISHING THE ASHEVILLE DOWNTOWN COMMISSION, AND ADOPTING A NEW ORDINANCE IN LIEU THEREOF

Mayor Michalove explained that Councilmen Ellison and Estes have been meeting with a committee to decide if the Asheville Downtown Commission was still necessary because the Commission would dissolve on December 31, 1990.

Councilman Ellison highlighted the major changes in the proposed ordinance stating that they do recommend to the City Council that the Asheville Downtown Commission exist with the dissolution date of January 1, 1997. He said the major changes were (1) the keeping of two members of the City Council appointed by the Council; (2) the keeping of two members of the Buncombe County Board of Commissioners appointed by the Board; and (3) adding the President of the Asheville Downtown Commission as a permanent member of the Commission. He said that the other provisions of the ordinance remained pretty much the same.

Upon inquiry of Councilman Bratton, Councilman Ellison stated that an effort was made to receive comments from all members of Council.

Councilman Ellison moved for the adoption of Ordinance No. 1884, with the changes noted above. This motion was seconded by Councilman Bratton.

On a roll call vote of 7-0, Ordinance No. 1884 passed on its first reading.

IV. NEW BUSINESS:

A. RESOLUTION NO. 90-185 - RESOLUTION ACCOMPANYING THE APPLICATION FOR A WATER RESOURCE DEVELOPMENT PROJECT GRANT TO CONSTRUCT A WHITEWATER CANOE AND KAYAK PRACTICE COURSE ON THE FRENCH BROAD RIVER

At the request of Councilman Estes, Councilman Ellison made a motion to excuse Councilman Estes at 6:30 p.m. This motion was seconded by Councilman Price and carried unanimously.

Karen Cragnolin, Director of the French Broad Riverfront Planning Committee, Inc., gave the background information concerning this grant. By use of a map, she showed Council members the route of the course.

Upon inquiry of Vice-Mayor Moore, Ms. Cragnolin stated that there would be no monetary obligation to the City for the construction of this course. She stated that she would confirm this with the Board and feels sure that they would have no problem in entering an agreement with the City relative to this issue.

It was the consensus of the Council to enter into an agreement with the French Broad Riverfront Planning Committee, Inc., d/b/a RiverLinks, providing that RiverLinks will reimburse the City for any expense incurred by the City in connection with this project.

Councilman Frank moved for the adoption of Resolution No. 90-185 with the above agreement to be made a part of the resolution. This motion was seconded by Vice-Mayor Moore and carried unanimously.

V. CONSENT AGENDA:

A. APPROVAL OF BIDS FOR 60 SELF-CONTAINED BREATHING APPARATUS FOR THE ASHEVILLE FIRE DEPARTMENT.

City Manager Bean asked that this item be pulled from the Council's agenda.

B. APPROVAL OF BIDS FOR FIVE SALT AND SAND SPREADERS FOR THE PUBLIC WORKS DEPARTMENT, STREET DIVISION

City Manager Bean explained why the City was recommending the third lowest bidder on the salt and sand spreaders.

Councilman Ellison moved to award the bid for five salt and sand spreaders to A. E. Finley & Associates, Charlotte, North Carolina, in the amount of $26,880. This motion was seconded by Vice-Mayor Moore and carried unanimously.

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENTS - ACTION BY THE PLANNING AND ZONING COMMISSION

Mr. Don Sherrill, Urban Planner, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. He said the action of the Planning and Zoning Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. He said the following actions were taken by the Planning and Zoning Commission at their meeting on December 5, 1990:

1. Memorial Mission Hospital East Parking Deck

Don Sherrill stated a public hearing would need to be held on this group development because a variance would be needed.

Councilman Ellison moved to schedule a public hearing on the Memorial Mission Hospital east building and parking deck for January 8, 1991. This motion was seconded by Vice-Mayor Moore and carried unanimously.

2. Turnamics Inc. Expansion

Don Sherrill gave a brief description of this expansion and stated that the Planning and Zoning Commission approved the site plan without any contingencies.

City Council accepted the recommendation of the Planning and Zoning Commission by taking no action.

3. Aberdeen Meadows

Don Sherrill gave a brief description of this project. He said the former project was for 20 apartment units and the current project is for 15 apartment units as detached units. He said that whenever City Council approved this group development before, there were three contingencies and two of those have been completed. He said the remaining contingency is the approval by FEMA of the requested revisions to the flood elevations of Beaverdam Creek in the project area. He said the Planning and Zoning Commission approved the site plan subject only to that one contingency.

City Council accepted the recommendation of the Planning and Zoning Commission by taking no action.

B. EASEMENT IN ALLEY OFF OF WALNUT STREET

Councilman Bratton moved to enter into an agreement for an easement with Cambridge Interests and Grateful Union regarding an alley off of Walnut Street. This motion was seconded by Vice-Mayor Moore and carried unanimously.

C. HAW CREEK FIRE INVESTIGATION

City Manager Bean stated that the City is in the process of doing an internal investigation relative to the fire that occurred in the Haw Creek area. He stated that the City would normally respond and the fire being in a newly annexed area had nothing at all to do with why the Asheville Fire Department did not respond. He stated that the Asheville Fire Department has responded to approximately 2,000 calls in the two newly annexed areas over the two years since they have been annexed.

D. LEAF PICKUP DEADLINE EXTENSION

City Manager Bean stated that it was widely publicized that the City would no longer pick up leaves after December 15, 1990. He stated that he had the authority to extend that deadline and was therefore extending it for an additional week. He said that it costs the City $3,000 per day to pick up leaves and since the residents of the City expect their leaves to continue to be picked up after December 15, we would accommodate their request for an additional week.

E. COUNCILMAN ELLISON REQUEST FOR SOUTH MARKET STREET BECOMING A TWO-WAY STREET

Councilman Ellison requested staff to look into the possibility of opening up South Market Street for two-way traffic. He felt the downtown area gets congested, this would be one way to alleviate that traffic problem.

Councilwoman Price stated that the Redevelopment Commission is looking into that item and suggested that the staff contact the Redevelopment Commission and ask them to put that on a higher priority.

F. VICE-MAYOR MOORE'S REQUEST FOR SPEED LIMIT INFORMATION

Upon inquiry of Vice-Mayor Moore, Assistant City Manager Penny stated that a study is now in the process of the possibility of lowering the speed limits in the Kenilworth area. He stated that the study will be done shortly and a report will be given to him.

G. CLAIMS

The following claims were received for the week of November 26, 1990 through November 30, 1990: Larry McHone and Mike Berry. The following claims were received for the week of December 3, 1990, through December 7, 1990: Fire Department, Terri Hines, Renee Watts and Jack Brinkley, Jr.

These claims have been referred to the appropriate insurers for investigation.

H. LAWSUIT

The following lawsuit was received by the City of Asheville on December 4, 1990: Plaintiff - Lake View Park Commission; Nature of Suit - Action to prevent trespass and seek injunctive relief where fence constructed across alley dedicated and accepted by the City; City made a party to assert its interests.

This lawsuit has been referred to the appropriate legal counsel for action.

I. C.I.B.O. RESOLUTION

Lanier Cansler read the following resolution and asked that it become a part of the minutes:

"WHEREAS, the Council of Independent Business Owners, Inc. (C.I.B.O.), was formed by local business owners for the purpose of monitoring local government, and

WHEREAS, C.I.B.O. has been attending and reporting to its membership on meetings of local government for over three years, and

WHEREAS, after three years of scrutiny, the evaluation of C.I.B.O. is that city taxes could be much more wisely spent, and

WHEREAS, private business is forced to make better financial decisions when money is limited, and

WHEREAS, local government has the ability to increase ad valorem taxes to keep itself growing regardless of the state of the economy or the impact upon its citizens, and

WHEREAS, local government has in fact increased ad valorem taxes the last three years, and

WHEREAS, in the face of large sewer and water increases necessary to cure past neglect, the present tax rate creates an unreasonable burden on the property owners of the City of Asheville, and

WHEREAS, the Charter of the City of Asheville provides the citizens a way to express their displeasure when taxes become too high by petitioning for a referendum to establish the ad valorem tax rate, and

WHEREAS, C.I.B.O. is willing and able to sponsor a petition to obtain the necessary signatures to bring about a referendum to establish the ad valorem tax rate.

THEREFORE, BE IT RESOLVED, the Board of Directors of C.I.B.O., at its meeting held on Friday, November 15, 1990, unanimously adopted the following:

1. That the members of the Asheville City Council be asked to reduce the ad valorem tax levied by the City from the current rate of $.60 per one hundred ($100.00) assessed value to the rate of $.54 per one hundred ($100.00) assessed valued for the fiscal year beginning July 1, 1991.

2. That the Asheville City Council be asked to complete this action not later than January 31, 1991.

3. That C.I.B.O. immediately begin circulating a petition to obtain the signatures of fifteen (15%) percent of the registered voters of the City of Asheville asking for a referendum to be set to establish the tax rate at $.54 per one hundred ($100.00) assessed valuation for the fiscal year beginning July 1, 1991.

4. That if action by Asheville City Council has not been completed by January 31, 1991 to set the ad valorem tax rate at $.54 per one hundred $100.00) assessed valuation for the fiscal

year beginning July 1, 1991 that C.I.B.O. present to the Buncombe County Board of Elections the petition containing at least fifteen (15%) percent of the registered voters of the City of Asheville, thereby requiring a referendum to be set within ninety (90) days.

THIS 11th day of Dec. 1990.

COUNCIL OF INDEPENDENT BUSINESS OWNERS, INC.

BY: s/Albert L. Sneed Jr. Secy."

Mayor Michalove felt this was an irresponsible action taken by C.I.B.O. and was disappointed they felt this action was necessary. He stated that this action by C.I.B.O. attempts to prevent people who hold public office from taking the action they need to take for the benefit of all the residents of the City.

Mayor Michalove then read a portion of N. C. Gen. Stat. sec. 159-17 (3) and stated that it was his opinion that the referendum was not authorized by state law.

Councilman Bratton stated that she was a very strong supporter of business and there needed to be better communication between business and government in the future.

The meeting adjourned at 7:15 p.m.

H. M. Michalove
MAYOR

Virginia F. Wolcott
CITY CLERK

Tuesday - December 18, 1990 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Councilman Bratton.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the minutes of the December 11, 1990 meeting as submitted.

I. PROCLAMATIONS:

A. Recognition of City Manager Intern - Nanci Farmer

The City Manager recognized Nanci Farmer, City Manager Intern for the past three (3) months and presented her with a Certificate of Achievement Award.

II. PUBLIC HEARINGS:

A. Continuation of public hearing - Hillside Development Regulations

Mayor Michalove noted that at the October 30, 1990 Council meeting a public hearing relative to Hillside Development Regulations was continued until December 18, 1990. He said it was Council's intent to have this public hearing along with consideration of street grades. He said Council will not be discussing street grades for several weeks and it is necessary that the public hearing be continued.

Councilman Estes moved to continue the public hearing relative to Hillside Development Regulations until January 29, 1991 without further advertisement. This motion was seconded by Vice-Mayor Moore and carried unanimously.

C. **Ordinance No. 1881 - Second reading of ordinance relative to rezoning property located on Richmond Hill Drive from R-3 Residential District to OI Office Institutional District (Petition of James E. Samsel).**

Mayor Michalove said the Asheville Planning and Zoning Commission on November 7, 1990, reviewed and recommended approval of rezoning Ward 6, Sheet 31, Lot 182 (Richmond Hill) from R-3 Residential District to OI Office Institutional. Petitioner would like to rezone Ward 6, Sheet 31, Lot 182 from R-3 Residential District to OI Office Institutional. Total acreage is 1.37 acres. This ordinance was read on first reading on December 11, 1990.

Mayor Michalove said the ordinance was previously read on first reading and would not be read in its entirety.

On a roll call vote of 7-0, Ordinance No. 1881 passed on second reading.

Councilman Ellison moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1881. This motion was seconded by Vice-Mayor Moore and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1881 passed on third and final reading.

Ordinance Book No. 12 Page 281 - 282

A. **Continuation of public hearing relative to a Group Development Review - Cottages at Richmond Hill Inn.**

Mayor Michalove said the Asheville Planning and Zoning Commission on June 6, 1990, reviewed and approved the site plan with one contingency. He said this public hearing was continued from the November 6, 1990 meeting.

Gerald Green, from the Planning Department, said The Education Center, owner of the Richmond Hill Inn, is proposing the construction of 18 additional guest rooms at the Inn. The additional rooms will be located in cottages separate from the main Inn. A total of 12 cottages is planned, nine one-unit cottages and three three-unit cottages. The guest rooms would be rented on a nightly basis. Parking for 27 vehicles is proposed as part of the development.

He said the developer has requested a variance to permit a reduction in the required 20 foot landscaped buffer to allow a 10 foot landscaped buffer. After hearing the argument for this variance, the Planning and Zoning

Commission voted to recommend approval of the variance for a reduced landscaped buffer. A second variance has been requested by the developers to permit a reduction in the rear building setback from the required 15 feet to 10 feet. Upon hearing the arguments for this variance, the Planning and Zoning Commission voted to recommend denial of the variance request for a reduced rear yard setback.

He said after reviewing the site plan for the project and hearing the comments of staff, the project architect, and neighboring property owners, the Planning and Zoning Commission voted to recommend approval of the group development request with the following contingency: Approval by City Council of a variance for a reduction in the required width of the landscaped buffer from 20 feet to 10 feet.

Upon inquiry of Council, Mr. Green said no complaints have been received relative to the project, and the WNC Baptist Home has been supportive.

Jim Samsel, Architect for the project, spoke in support of the project stating that there is a great demand for the guest rooms.

Mayor Michalove closed the public hearing at 4:27 p.m.

Councilman Bratton moved to approve the group development plan for the Cottages at Richmond Hill Inn as recommended by the Planning and Zoning Commission. This motion was seconded by Councilman Ellison and carried unanimously.

B. **Continuation of public hearing relative to designating the Flat Iron Building as a local historic landmark.**

Ordinance No. 1885 - Ordinance designating property known as the Flat Iron Building and located at 20 Battery Park Avenue as a local historic landmark

Mayor Michalove said this public hearing was continued from the December 11, 1990 meeting.

Kent Newell, Director of Historic Resources Commission, reviewed a detailed report regarding the Historic Resources Commission Local Historic Landmark Program. The report included nomination criteria, existing historic landmarks, assessment history Survey Results, and proposed future designations.

Mr. Newell said the Flat Iron Building is significant for a Historic landmark designation.

Ralph Bishop objected to the loss of tax dollars through historic designations.

Russell Thomas, General Manager of the Flat Iron Building, spoke in support of the historic designation.

Mayor Michalove closed the public hearing at 4:50 P.M.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Price moved for the adoption of Ordinance No. 1885. This motion was seconded by Councilman Bratton.

On a roll call vote of 7-0, Ordinance No. 1885 passed on first reading.

Vice-Mayor Moore moved to suspend the rules and proceed to the second reading of Ordinance No. 1885. This motion was seconded by Councilman Bratton and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1885 passed on second reading.

Councilman Ellison moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1885. This motion was seconded by Councilman Frank and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1885 passed on third and final reading.

Ordinance Book No. 12 Page 296 - 299

III. OLD BUSINESS:

A. Resolution No. 90-186 - Resolution to amend the plan for extension of major municipal services for the West Area.

Mayor Michalove said the N.C. Gen. Stat. 160A-49(e) authorizes the municipal government to amend the report required by N. C. Gen. Stat. 160A-47 to make changes in the plans for serving the area proposed for annexation.

Patty Tallerday, from the Planning Department, said the plan is being amended to reflect the removal of portions of the proposed annexation area and the figures changed to correspond to the new boundary description.

Mayor Michalove said copies of the resolution had previously been distributed to Members of Council, and the resolution would not be read unless there was a specific request to do so.

Vice-Mayor Moore moved to adopt Resolution No. 90-186 amending the Report of Plans for Extension of City Services into the west area proposed for annexation with the amendments to the Plan as set forth in the amended Plan for services attached to the resolution which was distributed to members of Council, earlier today. This motion was seconded by Councilman Bratton and carried unanimously.

Resolution Book No. 18 - Page 317

A. **Ordinance No. 1883 - Second reading of ordinance to annex area known as the West Area.**

Mayor Michalove said the adoption of an ordinance extending the corporate limits to the West Area is the final step in the procedure for annexation defined in N. C. Gen. Stat. sec. 160A-49.

Vice-Mayor Moore moved to amend the annexation ordinance in accordance with the ordinance distributed to members of Council earlier today, including revisions in the description attached to the ordinance as Exhibit "A" and the revisions in the Plan for services attached to the ordinance as Exhibit "B". This motion was seconded by Councilman Frank and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1883 passed on second reading.

Vice-Mayor Moore moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1883. This motion was seconded by Councilman Frank and carried unanimously.

Ralph Bishop spoke in opposition to the annexation ordinance and stated Council was rushing the process for annexation.

There being no further comments relative to the annexation ordinance, Mayor Michalove called for the third and final reading of Ordinance No. 1883.

On a roll call vote of 7-0, Ordinance No. 1883 passed on third and final reading.

Mayor Michalove said the effective date of the Annexation Ordinance is January 28, 1991.

Ordinance Book No. 12 Page 286 - 290

B. **Ordinance No. 1879 - Third reading of ordinance amending Section 30-5-15 of the Code of Ordinances of the City of Asheville (Conservation Overlay for Historic Landmarks).**

Mayor Michalove said this ordinance provides for the establishment of conditional use district for historic landmarks and procedures for obtaining rezoning and conditional use permit for historic landmarks.

Mayor Michalove said the ordinance was previously read on second reading and would not be read in its entirety.

On a roll call vote of 7-0, Ordinance No. 1879 passed on third and final reading.

Ordinance Book No. 12 Page 276 - 280

D. Ordinance No. 1882 - Second reading of ordinance relative to rezoning property located on South Louisiana Avenue from R-3 Residential District to CS Commercial Service District (Petition of Lester and Sallie Sharp, Owners).

Mayor Michalove said the Asheville Planning and Zoning Commission on November 7, 1990, reviewed and recommended approval of rezoning Ward 6, Sheet 9, Lots 76 1/4 and 258 (southern portion) located on S. Louisiana Avenue from R-3 Residential District to CS Commercial Service District. Rezoning request involving one lot facing Louisiana Avenue and a portion of a lot internal to the block north of the Old Winn Dixie site at the corner of Haywood Road and South Louisiana Avenue.

Mayor Michalove said the ordinance was previously read on first reading and would not be read in its entirety.

On a roll call vote of 7-0, Ordinance No. 1882 passed on second reading.

Councilman Ellison moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1882. This motion was seconded by Councilman Bratton and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1882 passed on third and final reading.

Ordinance Book No. 12 Page 283 - 285

E. Ordinance No. 1884 - Second reading of an ordinance reestablishing the Asheville Downtown Commission.

Mayor Michalove said the ordinance establishing the Downtown Commission was reviewed by a City Council Committee and some changes were made in the ordinance.

Mayor Michalove said the ordinance was previously read on first reading and would not be read in its entirety.

On a roll call vote of 7-0, Ordinance No. 1884 passed on second reading.

Councilman Ellison moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1884 This motion was seconded by Councilman Estes and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1884 passed on third and final reading.

Ordinance Book No. 12 Page 291 - 295

IV. NEW BUSINESS:

A. **Ordinance No. 1886 - Budget amendment for capital projects transfers for Parks and Recreation projects.**

Mayor Michalove said the 1990-91 Capital Improvement Program contains approved Parks and Recreation projects. This amendment provides an appropriation and transfer revenues for those projects.

Mayor Michalove said copies of the ordinance had previously been distributed to Members of Council, and the resolution would not be read unless there was a specific request to do so.

Vice-Mayor Moore moved for the adoption of Ordinance No. 1886. This motion was seconded by Councilman Estes.

On a roll call vote of 7-0, Ordinance No. 1886 passed on first and final reading.

Ordinance Book No. 12 - Page 300

C. **Report relative to recommendations on Fees and Charges.**

The City Manager said the City received four proposals from qualified firms for a User Fee Study for the examination of the services provided by its Parks and Recreation Department, Public Works Department (excluding garbage collection) and Inspection Division to determine whether service fees charged are equitable and whether there are other services for which a fee would be appropriate.

He said an evaluation committee has recommended that the proposal received from the firm of David M. Griffith be accepted. The cost of their proposal is estimated not to exceed $19,060 and a complete report would be received in two months.

Vice-Mayor Moore moved to accept the proposal received from David M. Griffith for a User Fee Study as recommended by

the City Manager. This motion was seconded by Councilman Price and carried unanimously.

Upon inquiry of Council, the City Manager reviewed the procedure used in soliciting proposals from qualified firms. He said a RFP was sent to Patton & Hunter, who declined to submit a proposal.

D. **Resolution No 90-187 - Resolution extending the terms of the current members of the Asheville-Buncombe Water Authority.**

Mayor Michalove said this resolution will extend the terms of the City appointees to the Asheville-Buncombe Water Authority by nine (9) months each. Similar actions will be taken by the County and the Water Authority to extend the terms of the other members by nine (9) months.

Councilman Price questioned whether there would be a conflict of interest for her to vote on this resolution since she is a member of the Water Authority.

The City Attorney said he did not feel there would be a conflict of interest but if she would like she could ask to be excused.

Vice-Mayor Moore moved to excuse Councilman Price from voting on Resolution No. 90-187. This motion was seconded by Councilman Bratton and carried unanimously.

Upon motion of Councilman Bratton, seconded by Vice-Mayor Moore, Resolution No. 90-187 was unanimously adopted.

Resolution Book No. 18 - Page 318 - 319

F. **Report relative to water pressure.**

Charles Penny, Assistant City Manager, reviewed the following report relative to fire flow.

MEMORANDUM TO: Mayor Michalove and Members of Council

FROM: Charles W. Penny, Assistant City Manager

DATE: December 14, 1990

SUBJECT: Adequate Fire Flow

At the November 27, 1990 City Council meeting the Planning staff presented to the City Council a group development plan for the expansion of a mobile home park in south Asheville. One of the

staff concerns was the lack of adequate fire flow to the mobile home park. City Council asked that information be provided on what is considered adequate fire flow and how those standards are determined. Attached are reports from the Fire Department and the Water Department on the fire hydrant system and the methodology for determining needed fire flow.

Lakeview Mobile Home Park

Additional tests have been conducted on the fire hydrant at Lakeview Mobile Home Park since the Council meeting on November 27th. Since the first flows and pressure tests were done in early October an additional water main was connected into the Lakeview area. The addition of the water main has significantly increased the pressure for fire protection in the area. On November 27th, Council was informed that the fire flow was approximately 550 gallons per minute with a residual of zero. The latest tests reveal a fire flow of 790 gallons per minute with a residual of 50 psi (pounds per square inch). With a residual of 50 psi, if it was necessary to attach to an additional hydrant on that main there will be water available for the additional hose. The standard staff utilizes for adequate fire flow is basically 500 gallons of water per minutes with a residual of 20 psi. The initial test with 0 psi would not allow for any additional hydrants to be utilized in the area.

Fire Flow Standard

Please find attached a report from the Fire Department entitled "Determining Need of Fire Flow". You will note from this report that calculating the amount of water needed to fight a fire is determined by the type of structures that are in the area. In Asheville 500 gallons per minute is the standard utilized for residential structures; however, the Insurance Service Office (ISO) sets as a minimum 1000 gallons per minute. City staff has maintained 500 gallons per minute minimum for fire flow.

Please see attachment B, which is a report from Harold Huff, Director of Water, Sewer & Engineering, in reference to the hydrant maintenance program in the City of Asheville. There are approximately 5000 hydrants throughout the Asheville-Buncombe Water system and it is estimated that 5% of those hydrants are not in working order. It is also estimated that 250 of the 5000 hydrants may have flows less than 500 gallons per minute. The report from Harold Huff also indicates that steps have been taken to repair the inoperable hydrants and significant dollars have been spent in the last eight (8) years replacing old 2" lines with 6" lines. On an annual basis the Water Authority is spending approximately one half million dollars to repair the distribution system which will help to alleviate some of the problems with the fire flows.

Staff is aware of areas that have less than the 500 gallon per minute flow required for fire protection; however, no master list has been developed from an engineering standpoint with hydraulic tests. The areas have been identified because of several reasons and they are as follows:

1) Hydrants are on water lines less than 6" in diameter;

2) Hydrants are on dead end lines and the possibility of reduced flow is very probable;

3) Fire Fighters have experienced difficulty with hydrants and have reported them for repair to the Water Department;

4) Water Maintenance hydrant and valve crews have identified problem areas.

In order to correct the deficiencies in the system, it is important that the Water Authority continue to expend the one half million dollars annually to upgrade the distribution system. In addition, the Water Authority should also develop a master plan for the distribution system as we currently have for the transmission system and to develop comprehensive mapping system of the entire distribution system.

If you have any further questions, please do not hesitate to contact me.

CWP/jr

cc: Mr. Douglas O. Bean
Mr. John Rukavina
Mr. Harold Huff

John Rukavina, Fire Chief, highlighted the report entitled "Determining Need of Fire Flow."

Councilman Ellison said members of Council recently turned down the Lakeview Mobile Home Park Group Development Plan because of inadequate water pressure. He said in light of the above report he would like to have Council reconsider the Group Development Plan.

After discussion, it was the consensus of Council that the City Attorney give members of Council a report on January 8, 1991 on the appropriate procedure to use in order to reconsider the Lakeview Mobile Home Park Group Development.

G. **Subdivision - Intersection of Long Shoals and Overlook Road.**

Don Sherrill, Urban Planner from the Planning Department, said Bruce E. Green and others request City Council approval of a final plat for a four (4) lot subdivision at the intersection of Long Shoals Road and Overlook Road. The parcel is 6.23 acres in size. He said at the meeting of December 5, 1990, the Asheville Planning and Zoning Commission reviewed the preliminary plat. After hearing staff comments, the Commission voted to approve the preliminary plat for the subdivision.

Councilman Ellison moved to approve the final plat of the subdivision at the intersection of Long Shoals and Overlook Road as recommended by the Planning and Zoning Commission. This motion was seconded by Councilman Price and carried unanimously.

H. **Subdivision - Tire America at Westgate Shopping Center.**

Don Sherrill, Urban Planner from the Planning Department, said Westgate Shopping Center is splitting off a parcel of land to be sold to Tire America. The City's Subdivision Ordinance requires this division of property to come through the Subdivision Review process. All services are available for this site. He said at their meeting on December 5, 1990, the Planning and Zoning Commission reviewed the preliminary plat for this subdivision. After hearing comments from the staff, the plat was approved with a contingency that the building setback distances be as indicated on the final plat.

Councilman Ellison moved to approve the final plat for Tire America at Westgate Shopping Center as recommended by the Planning and Zoning Commission. This motion was seconded by Councilman Price and carried unanimously.

V. CONSENT:

A. **Approve bids for automobiles and Trucks for City of Asheville.**

SUMMARY: This will be an award of 12 vehicles consisting of eight (8) trucks (various sizes) and four (4) sedans.

A copy of the bid summary is on file in the Office of the City Clerk.

B. **Approve bids for four (4) portable diesel powered brush chippers for the Public Works Department.**

SUMMARY: Recommendation to award to the lowest bidder meeting specifications, Vermeer Carolinas, Inc., Charlotte, North Carolina for four (4) "Vermeer" Model 1250 brush chippers.

A copy of the bid summary is on file in the Office of the City Clerk.

C. **Approve bids for one street sweeper for Public Works Department.**

SUMMARY: Award to sole bidder, North Carolina Equipment Company, Asheville, N. C. for a 1990 "Ford" cab and chassis with a 1991 "Johnston" model 600 sweeper body.

A copy of the bid summary is on file in the Office of the City Clerk.

Upon motion of Councilman Frank, seconded by Vice-Mayor Moore, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

A. **Approve bids for furniture for City Hall Building.**

The City Manager reviewed the bids received for miscellaneous office furniture for the Mezzanine, Third, Fourth, Fifth and Sixth Floors of the City Hall Building. He said it has been recommended that the award be given to Office Environments for a total amount of $137,068.20, which is $40,000 under budget.

A copy of the complete bid summary is on file in the Office of the City Clerk.

Councilman Price moved to accept the bid of Office Environments for miscellaneous office furniture for the Mezzanine, Third, Fourth, Fifth and Sixth Floors of the City Hall Building in the amount of $137,068.20. This motion was seconded by Vice-Mayor Moore and carried unanimously.

B. **Resolution No. 90-188 - Resolution appointing member to the Asheville Area Civic Center Commission**

Mayor Michalove said this resolution will appoint Rankin B. Hipp as a member of the Asheville Area Civic Center to replace Diana Bilbrey who resigned. Mr. Hipp will serve the unexpired term of Ms. Bilbrey, term expiring June 30, 1991, or until his successor is duly appointed and qualified.

Upon motion of Vice-Mayor Moore, seconded by Councilman Bratton, Resolution No. 90-188 was unanimously adopted.

Resolution Book No. 18 - Page ~~320~~ 319A

C. **Resolution No. 90-189 - Resolution appointing member to the Asheville Transit Authority**

Mayor Michalove said this resolution will appoint Larry R. Linney as a member of the Asheville Transit Authority to replace Raymond F. Myers whose term expires December 31, 1990. Mr. Linney will serve a term of four (4) years, term expiring, December 31, 1994, or until his successor is duly appointed and qualified.

Upon motion of Vice-Mayor Moore, seconded by Councilman Bratton, Resolution No. 90-189 was unanimously adopted.

Resolution Book No. 18 - Page ~~321~~ 319-B

D. **Resolution No. 90-190 - Resolution appointing member to the Board of Adjustment**

Mayor Michalove said this resolution will reappoint Rudy J. Stefanec as an Alternate member to the Board of Adjustment to serve a term of three (3) years, term expiring January 21, 1994, or until his successor is duly appointed and qualified.

Upon motion of Vice-Mayor Moore, seconded by Councilman Bratton, Resolution No. 90-190 was unanimously adopted.

Resolution Book No. 18 - Page ~~322~~ 319-C

E. **Resolution No. 90-191 - Resolution appointing members to the Downtown Commission**

Mayor Michalove said this resolution will appoint the following individuals as members of the Asheville Downtown Commission: Don Martell as Chairman; Barbara Fields, Claudia Tucker, Brady Blackburn, Barry Olin, Ed McFarland, President of the Downtown Association, Councilman Mary Lloyd Frank, Councilman Wilhelmina Bratton, County Commissioner Jesse Ledbetter, and County Commissioner Bill Stanley.

Upon motion of Vice-Mayor Moore, seconded by Councilman Bratton, Resolution No. 90-191 was unanimously adopted.

Resolution Book No. 18 - Page ~~323~~ 319-D

Mayor Michalove announced that Council would make one additional appointment to the Downtown Commission on January 8, 1991. He said the individuals under consideration for this appointment are: Chris Peterson; Mrs. Dave "Butch" Denning; and Victor Trantham. He said this list of individuals was filed with the City Clerk on December 18, 1990.

F. **Resolution No. 90-192 - Resolution appointing members to the Buncombe County War on Drug Commission.**

Mayor Michalove said this resolution will appoint Arthur Eddington and Willie McDaniels as members of the Buncombe County War on Drug Commission.

Upon motion of Vice-Mayor Moore, seconded by Councilman Bratton, Resolution No. 90-192 was unanimously adopted.

Resolution Book No. 18 - Page ~~324~~ 319-E

G. **Resolution No. 90-193 - Resolution appointing members to the Minority Business Committee.**

Mayor Michalove said this resolution will appoint Ronald Blythe as a member of the Minority Business Committee to replace Dee Williams representing the Asheville Business Development Center, term expiring August 1, 1991 and appoint Matthew Bacoate as a member of the Minority Business Committee to replace Marilyn Bass representing the YMI Cultural Center, term expiring August 1, 1991, or until their successors are duly appointed and qualified.

Upon motion of Vice-Mayor Moore, seconded by Councilman Bratton, Resolution No. 90-193 was unanimously adopted.

Resolution Book No. 18 - Page ~~325~~ 319-F

H. **Claims - Mike Renau (Streets) - City of Asheville (City Vehicle damaged) Home Furniture (Water) - City of Asheville (City vehicle damaged)**

Claims were presented from Mike Renau, City of Asheville, Home Furniture, and another for the City of Asheville.

These claims have been referred to the appropriate insurers for investigation.

VII. ADJOURNMENT:

Mayor Michalove said with the Christmas and New Year's Holidays Council will not meet again until January 8, 1991. He wished everyone a Merry Christmas and a Happy New Year.

Mayor Michalove adjourned the meeting at 6:10 p.m.

R. M. Michalove
MAYOR

William F. Holcomb
CITY CLERK

Attachment 18

ASHEVILLE

MEMORANDUM

TO: Charles Penny

FROM: Harold Huff

DATE: December 12, 1990

SUBJECT: Lakeview Hydrant Flows

Since the first flow and pressure tests were done in early October an additional water main was connected into the Lakeview water line to strengthen this area. Now, the flow is an adequate 790 g.p.m. and the residual pressure is 50 p.s.i. with a static pressure of 125 p.s.i.

Harold Huff

Harold Huff

HH/sm

WATER, WASTEWATER COLLECTION
& ENGINEERING DEPARTMENT
ADMINISTRATION

CITY OF ASHEVILLE
POST OFFICE BOX 7148
ASHEVILLE, NC 28802
(704) 259-5955

DETERMINING NEEDED FIRE FLOW

Fire flow is the amount of water needed to control or extinguish a fire in an occupancy. Fire flow is expressed in gallons per minute (GPM). The typical GPM expression of needed fire flow is the amount of water needed to control a fire serious enough to threaten the building or occupancy.

One simple way to determine needed fire flow is to take the total cubic feet of a building, and divide by 100. The result, in simplified terms, is needed fire flow.

This formula is based on extensive research at the University of Iowa into the ability of water to absorb heat and extinguish fire. This research demonstrated that "maximum extinguishment efficiency is achieved at a flow rate of one gallon per minute per 100 cubic feet of fire area."

This simple formula is adequate for fire-scene calculations, but is too simple for plans evaluation or pre-planning purposes. The simple formula does not take into account construction materials, fire barriers, non-combustible (or unusually-combustible) contents, etc.

A more complex method of calculating estimated needed fire flow is presented in "Guide for Determining Needed Fire Flow" from the National Fire Academy. This "Guide" is designed to take factors other than building size alone into account. Here, in abbreviated form, are the steps used to determine needed fire flow:

1. Determine construction type (fire-resistive, non-combustible, ordinary/heavy timber, wood frame, etc.);

2. Determine fire area (in square feet) (a copy of the "Base Fire Flow" chart from the "Guide" is attached for your information);

3. Make adjustments for the following:
   (a) Occupancy adjustment
   (b) Exposure adjustment

4. Based on adjustments, calculate needed fire flow.

In applying this "Guide" in Asheville, a local change has been introduced--a "typical" single-family dwelling is assumed to require a fire flow of 500 GPM, even though the "Guide" requires 750 gallons per minute or more for wood-frame dwellings of 1100 square feet or more. (The Insurance Services Office now uses a 1000 GPM fire flow as its rating minimum).

TABLE 1: BASE FIRE FLOW

Fire Area (in square feet) for Various Construction Types

Base Fire Flow	Fire Resistive	Non-Combustible	Ordinary* or Heavy Timber	Wood Frame
500	3,300	1,900	1,200	500
750	6,600	3,700	2,400	1,100
1,000	10,900	6,100	3,900	1,700
1,250	16,200	9,100	5,800	2,600
1,500	22,700	12,700	8,200	3,600
1,750	30,200	17,000	10,900	4,800
2,000	38,700	21,800	13,900	6,200
2,250	48,300	27,200	17,400	7,700
2,500	59,000	33,200	21,300	9,400
2,750	70,900	39,700	25,500	11,300
3,000	83,700	47,100	30,100	13,400
3,250	97,700	54,900	35,200	15,600
3,500	112,700	63,400	40,600	18,000
3,750	128,700	72,400	46,400	20,600
4,000	145,900	82,100	52,500	23,300
4,250	164,200	92,400	59,100	26,300
4,500	183,400	103,100	66,000	29,300
4,750	203,700	114,600	73,300	32,600
5,000	225,200	126,700	81,100	36,000
5,250	247,700	139,400	89,200	39,600
5,500	271,200	152,600	97,700	43,400
5,750	295,900	166,500	106,500	47,400
6,000	greater	greater	115,800	51,500
6,250			125,500	55,700
6,500			135,500	60,200
6,750			145,800	64,800
7,000			156,700	69,600
7,250			167,900	74,600
7,500			179,400	79,800
7,750			191,400	85,100
8,000			greater	greater

*Fire flow not to exceed 6,000 gpm in one-story buildings not exceeding 16 feet in height.

ASHEVILLE

MEMORANDUM

RECEIVED
DEC 14 1990
ASSISTANT CITY MANAGER

TO: Charles Penny

FROM: Harold Huff

DATE: December 12, 1990

SUBJECT: Hydrant Fire Flows in Asheville's Water System

PAST:

The five thousand fire hydrants both inside and outside the city limits that are connected to the Asheville Water System have suffered from neglect for many decades. Previous water directors and governing bodies may have maintained the position that fire hydrants served the water system for the purpose of line flushing and air removal with fire protection a secondary purpose. Over the years our hydrant network has been ignored to the point that about 5% of our 5000 hydrants (250) are estimated to not be in working order and an estimated 250 more may have flows less than 500 gallons per minute. Five hundred gallons per minute would be a very minimum for a residential area.

RECENT PAST:

The Asheville/Buncombe Water Authority as recently as five years ago had nearly 2,100 homes or about 6,300 people without dependable water service on a daily basis in the summer. With 6% of its total customers without any water approximately 10 hours a day during the summer months, priorities for the distribution system deficiencies had to be set. The Authority stepped up its annual distribution system improvement plan which replaces 2 inch and less mains with 6 inch mains and now there are only 200 homes (600 people) without water on a daily basis during the summer months. There are plans to correct the service level for these remaining customers in the next 3 years. In addition in early 1988 a water system master plan was adopted and many water line transmission mains sited in the plan have been installed or are now under construction. The many distribution system improvements and transmission main installations have improved the hydrants flows in a number of areas in our system.

WATER, WASTEWATER COLLECTION
& ENGINEERING DEPARTMENT
ADMINISTRATION

CITY OF ASHEVILLE
POST OFFICE BOX 7148
ASHEVILLE, NC 28802
(704) 259-5955

PRESENT:

There have been positive changes towards better fire protection water flows as follows:

1) Nearly 7 million dollars has been spent in the last 8 years replacing old 2 inch and less diameter lines without hydrants, with 6 inch lines with fire hydrants.

2) Major transmission mains on Broadway, Enka Lake Rd., Emmas Grove Rd., Hendersonville Hwy., and Beaucatcher Rd. have been installed throughout our system in the last 3 years. These installations have improved flows and pressures in the associated hydrant network.

3) As of July 1990, we now have 2 crews doing hydrant testing, painting, numbering and repairs. Before then we had no hydrant crews. We should be able to test and repair all hydrants within the next 2 1/2 years. Thereafter we should be able to test and fix hydrants on an annual basis.

FUTURE:

In the next 4 years the following planned improvements will also result in improved hydrants flows and pressures.

1) Completion of the French Broad River plant off Brevard Road will improve flows and pressures both in the West and South area.

2) Completion of a number of regional pump stations and computer control system as sited in the master plan.

3) Continuation of 1/2 million dollars annual small line distribution system replacement program.

SUMMARY:

The Asheville water hydrant system was in very poor condition as recently as five years ago. A number of recent improvements to the water system have resulted in a betterment of the hydrant network. Proper maintenance and major system improvements planned within the next 4 years should bring the overall hydrant system up to a satisfactory or above level.

Harold Huff

HH/sm

Regular Meeting - December 25, 1990

NO MEETING - CHRISTMAS DAY

MERRY CHRISTMAS

K. M. Nicholson
MAYOR

William F. Nolcott
CITY CLERK

Regular Meeting - January 1, 1991

NO MEETING - HAPPY NEW YEAR

MERRY CHRISTMAS

H. M. Vanderhamp
MAYOR

CITY CLERK

Tuesday - January 8, 1991 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, and Eugene W. Ellison; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman William W. Estes

INVOCATION

The invocation was given by Councilman Price.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the minutes of the December 18, 1990 meeting as submitted.

I. PROCLAMATIONS:

A. **Invitation to American Indian National Art Exhibit**

Pamela Adams, Chairperson for the American Indian National Art Exhibit, said the High Country Arts Guild and the Eastern Bank of Cherokee are sponsoring the American Indian National Art Exhibit on September 25 - 29, 1991. She requested Council's support through the adoption of a resolution or a proclamation.

Ms. Adams invited members of Council to a reception on January 17, 1991 at 5:00 p.m. at the Haywood Park Hotel to kick off this exhibit.

B. **Introduction of Asheville High School Representative**

Charles Penny, Assistant City Manager, introduced Michal Shapira, the Asheville High School Student Representative for the next four (4) weeks.

II. PUBLIC HEARINGS:

A. **Public hearing relative to Memorial Mission Hospital - East Parking Deck.**

Mayor Michalove opened the public hearing at 4:12 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Don Sherrill, from the Planning Department, said the Planning and Zoning Commission has recommended to the Council that the site plan of the Memorial Mission Hospital East Parking Deck at the intersection of Biltmore Avenue and Doctors Drive be approved subject to the following contingencies:

1. Compliance with conditions to assure adequate fire protection, as identified in memo from Mike Jones dated October 12, 1990;

2. Approval by City Council of a variance to permit the reduction in the front yard setback;

3. The parking deck be constructed in the exact location shown on plan C2.2, revised on November 29, 1990 and giving the Planning Director the authority to approve movement of the proposed parking deck up to 2 feet closer to Biltmore Ave.;

4. Receipt of water availability letter; and

5. DOT approval of driveway permit.

Mr. Sherrill said this would be a five-story parking deck with 605 spaces. By the use of a map, he reviewed the surrounding zoning and use of the properties. He said the variance would allow construction of the deck to be 16.9' from the right-of-way line and giving the Planning Director the authority to approve movement of the parking deck up to 2 feet closer to Biltmore Avenue or 14.9' from the right-of-way line.

Mr. Morrison, speaking on behalf of Memorial Mission Hospital, said the parking deck could not be built in the proposed location if the variance is not granted.

A representative of the Kenilworth Residents Association said the Homeowner's Association endorse Memorial Mission Hospital's efforts for a new parking deck.

Mayor Michalove closed the public hearing at 4:30 p.m.

Councilman Bratton moved to approve the group development plan for the Memorial Mission Hospital - East Parking Deck with the contingencies outlined by the Planning and Zoning Commission and approval of the variance as requested and recommended by the Planning and Zoning Commission. This

motion was seconded by Councilman Frank and carried unanimously.

III. OLD BUSINESS:

IV. NEW BUSINESS:

A. Ordinance No. 1886 - Budget ordinance amendment for staff vehicles.

The City Manager said these vehicles were originally budgeted in the Planning Department as part of the Fleet Management Program. They are actually being purchased for Fleet Management and put in the Motor Pool so that all departments will be able to use the vehicles. This budget amendment simply transfers Capital funds budgeted in the Planning Department for the Fleet Management Internal Budget Fund.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Ellison moved for the adoption of Ordinance No. 1886. This motion was seconded by Vice-Mayor Moore.

On a roll call vote of 6-0, Ordinance No. 1886 passed on first and final reading.

Ordinance Book No. 12 Page No. 299

B. Ordinance No. 1887 - Budget ordinance amendment for YMI Community and Economic Development Program.

The City Manager said this budget amendment will reflect an amendment to the economic development funding for the YMI Cultural Center, in the amount of $12,500, which is one-half of the years funding to staff the Minority Loan Pool program.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Ellison moved for the adoption of Ordinance No. 1887. This motion was seconded by Councilman Bratton.

On a roll call vote of 6-0, Ordinance No. 1887 passed on first and final reading.

C. Report of plans for Downtown Design Review Public Meeting.

Councilman Frank said the Council Committee for Downtown Design Review, comprising Vice-Mayor Moore, Councilman Estes and herself, will hold a public hearing relative to the Downtown Design Review on February 13, 1991 at 7:00 p.m. in the Lord Auditorium in the Pack Memorial Library.

She said the Planning and Zoning Commission and the Downtown Commission will give a status report on the Downtown Design Review. She said property owners and tenants are encouraged to attend.

She said comments from this hearing will be reviewed prior to finalization of the downtown design review.

E. Resolution No. 90-1 - Resolution authorizing the City Manager to sign an agreement providing for delivery of fire protection services to the Veteran's Administration Medical Center at Oteen through January 31, 1991.

The City Manager said the present contract expired December 31, 1990. The Veterans Administration has had a fire protection contract with the City since 1975. They and the Fire Department staff are and have been renegotiating a contract. This will extend the contract through January 31, 1991 until a new contract can be negotiated.

Mayor Michalove said copies of the resolution had previously been distributed to members of Council, and the resolution would not be read unless there was a specific request to do so.

Upon motion of Councilman Price, seconded by Vice-Mayor Moore, Resolution No. 90-1 was unanimously adopted.

Resolution Book No. 18, Page 320

V. CONSENT:

VI. OTHER BUSINESS:

A. Introduction of City Manager Interns

The City Manager introduced Corrine Meade from the Fire Department and David Adams from the Street Department.

They will be serving as City Manager Interns for the next three (3) months.

B. **South Market - Two Way Traffic - Request for Information from Councilman Ellison**

Upon inquiry of Councilman Ellison, the City Manager said the South Pack Square Redevelopment Committee would be giving a recommendation on the feasibility of opening South Market to two way traffic.

After discussion, Councilman Ellison asked that the City Staff also provide a recommendation on the opening of South Market to two way traffic.

C. **Councilman Price - Middle East Crisis - Letter to Saddam**

Councilman Price said as a member of the National Federation of Women's Club, she has written a letter to Saddam encouraging Iraq to accept the United Nations resolution to ending the Middle East Crisis. She said she has the New York address to write to Saddam if anyone would be interested in writing a letter.

D. **ABC Local Government Opinion Form Approval - East Village Delicatessen & Grille, 1177 Tunnel Road, Asheville, N. C. - "On Premises" Beer/Wine**

The City Manager presented an ABC Local Government Opinion Form Approval for East Village Delicatessen & Grille, 1177 Tunnel Road, Asheville, N. C. for "On Premises" Beer/Wine license. He said after researching the matter it was determined that the N.C. General Statute require local government board approval and the authority can not be delegated. He said Council only needs to take action if they wish to deny a permit - no action indicates approval.

Council took no action thereby approving the ABC Local Government Opinion Form for East Village Delicatessen & Grille, 1177 Tunnel Road, Asheville, N. C. for "On Premises" Beer/Wine license.

E. **Ralph Bishop - Comments relative to lottery sales**

Ralph Bishop again addressed members of Council relative to lottery sales in the City of Asheville.

F. **Claims - Wallace Burnette (Streets) - Sharon Reynolds (Water) - Larry Williams (Streets) - East Asheville Medical Lab (Water) - City of Asheville (Damage to Vehicle) -Janie Morrow (Streets) - William Bobb (Inspections) - Mary Ann McKinley (Parks)**

The City Manager said claims were received from Wallace Burnette, Sharon Reynolds, Larry Williams, East Asheville Medical Lab, City of Asheville, Janie Morrow, William Bopp, and Mary Ann McKinley.

These claims have been referred to the appropriate insurers for investigation.

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 4:50 p.m.

W. M. Michalove
MAYOR

William F. Holcomb
CITY CLERK

Tuesday - January 15, 1991 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Bratton (Arrived at the Meeting at 5:10 P.M.)

INVOCATION

The invocation was given by Councilman Estes.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the minutes of the January 8, 1991, meeting.

I. PROCLAMATIONS:

A. Proclamation - Dr. Martin Luther King, Jr. Week.

Mayor Michalove read a proclamation proclaiming the week of January 15-21, 1991, as "Dr. Martin Luther King, Jr. Week." He presented the proclamation to Oraleen Simmons, Reid Memorial Center Director, who highlighted the events that would be taking place during the week. She said the largest event scheduled is the Annual Martin Luther King, Jr. Prayer Breakfast. Ms. Simmons said events are sponsored by the Asheville Parks and Recreation Department in conjunction with many other local agencies.

B. Resolution No. 91-02 - Resolution in Memory of Carl E. Johnson.

Mayor Michalove read a resolution in memory of Carl E. Johnson. He said Carl Johnson had served the Asheville community in various capacities, which include President of the Hillcrest Tenants Association, Commissioner on the Model Cities Commission, Former Chairman of Poor People of Asheville, Inc., Former Chairman of the Black Appalachian Commission, Former Vice-Chairman of the Opportunity Corporation of Madison-Buncombe Counties, and a Former Member of the Commission to Study Housing Programs in North Carolina.

Councilman Price moved for the adoption of Resolution No. 91-02 which also instructs that the City Clerk transcribe the resolution in the minutes and to forward a copy of the resolution

Mayor Michalove said this ordinance will update provisions concerning the regulation of pawnbrokers.

Deborah Adams, Revenue Manager, said this ordinance updates provisions regarding the regulation of pawnbrokers. She said the new language requires the owner/manager to provide a records check for the past ten years, and stipulates that the pledgor sign and thumb print the pawn ticket. Ms. Adams said it also requires a fee for the license, in addition to the Privilege License fee, and provides for an appeals process.

Chief Beavers, Asheville Police Department, answered questions from members of Council relative to changes in the amendment, specifically as they relate to obtaining more information on employees of Pawn Shops and obtaining more information from individuals using the services of the Pawn Shop.

Councilman Ellison suggested that copies of the proposed ordinance be distributed to all pawnbrokers in the City so that their input may be received by Council prior to the second reading of the ordinance.

Mayor Michalove said a copy of this ordinance was previously distributed to members of City Council, and it would not be read unless there was a request to do so.

Councilman Estes moved for the adoption of Ordinance No. 1888. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1888 passed on first reading.

C. Ordinance No. 1889 - Ordinance amending Sections 28-81.2, 28-81.3, and 28-81.4 of Article IV, Speed Regulations of Chapter 28 of the Code of Ordinances of the City of Asheville. (Speed Limit Reduction on Aurora Drive, Lakewood Drive, Wyoming road, and Forest Hill Drive).

The City Manager said based on a request, the Traffic Engineering Division made a study of the entire Kenilworth area. He said based on that study, staff recommends the following changes:

Aurora Drive	- 25mph to 20mph
Lakewood Drive	- 35mph to 25mph
Wyoming Road	- 35mph to 30mph
Forest Hill Drive	- 30mph to 25mph

Councilman Ellison inquired whether or not any comments had been received from the Kenilworth Association relative to the recommendations. He requested that a copy of the proposed ordinance be sent to the Kenilworth Association prior to the second reading so Council could receive their input.

Mayor Michalove said a copy of this ordinance was previously distributed to members of City Council, and it would not be read unless there was a request to do so.

Vice Mayor Moore moved for the adoption of Ordinance No. 1889. This motion was seconded by Councilman Frank.

On a roll call vote of 6-0, Ordinance No. 1889 passed on first reading.

D. Resolution No. 91-03 - Resolution authorizing the Asheville-Buncombe Water Authority to acquire property by condemnation.

City Attorney William F. Slawter said the Asheville-Buncombe Water Authority has requested authority to acquire two tracts of land by condemnation in connection with the Mt. Royal Pump Station Project and the Bennett's Cove Road Project.

Mayor Michalove said a copy of this resolution was previously distributed to members of City Council, and it would not be read unless there was a request to do so.

Upon motion of Mayor Moore, seconded by Councilman Ellison Resolution No. 91-03 was unanimously adopted.

Resolution Book 18 - Page 322

E. Approve bids for 60 self-contained breathing apparatus for Asheville Fire Department.

The City Manager said a committee of the Fire Department has reviewed the bids very carefully and recommends that Council award the bid to the lowest responsible bidder, National Draeger of Pittsburg, Pennsylvania, in the amount of $80,910.00 for the purchase of sixty (60) "Draeger" Model #PA-80/4052616. He said all of the bids were reviewed in detail by the Committee, and they could not recommend award to the low bidder, Scott, due to their past performance, their failure to live up to standards, and also because the equipment could not be delivered until July or August, 1991. In addition, he said the MSA is a new unit on the market and doesn't meet specifications.

Councilman Bratton arrived at the meeting at 5:10 P.M.

Councilman Ellison moved that, pursuant to N.C. Gen. Stat. sec. 143-129, taking into consideration quality, performance and the time specified in the proposals for the performance of the contract, the bid of National Draeger, Inc., of Pittsburg, Pennsylvania, in the sum of $80,910 be accepted for the purchase of 60 self-contained breathing apparatus units, and the remaining bids be rejected based upon the information set forth in the memorandum from John Rukavina to Doug Bean dated the 10th of January, 1991, along with the accompanying six (6) attachments.

This motion was seconded by Vice Mayor Moore and carried unanimously.

(The attachments referred to in the above motion are attached hereto and made a part hereof.)

Mayor Michalove turned the chair over to Vice Mayor Moore and excused himself from the meeting at 5:20 P.M.

V. CONSENT:

A. Resolution No. 91-04 - Resolution providing that the Buncombe County War on Drug Commission hereafter be known as the "Buncombe County Drug Commission."

SUMMARY: The City of Asheville participated in the establishment of the Buncombe County War on Drugs Commission, a Commission established by an interlocal agreement dated October 2, 1989, by and among the County of Buncombe and all municipalities located in Buncombe County. All of the parties to the interlocal agreement have now agreed to change the name of the Commission from the "Buncombe County War on Drugs Commission" to the "Buncombe County Drug Commission." This resolution provides that the "Buncombe County War on Drugs Commission" hereafter be known as the "Buncombe County Drug Commission."

Resolution Book 18 - Page 323

B. Resolution No. 91-05 - Resolution appointing members to the Asheville School Board.

SUMMARY: This resolution will reappoint David R. Hillier and Dr. Erby R. Oglesby as members of the Asheville School Board to serve four (4) year terms.

Resolution Book 18 - Page 323

Upon motion of Councilman Frank, seconded by Councilman Ellison, the Consent Agenda was unanimously adopted.

VI. OTHER BUSINESS:

A. Councilman Estes - Request to Discuss School Consolidation at Council Retreat.

Councilman Estes requested that a discussion relative to school consolidation be placed on the Council Retreat Agenda.

B. ABC Local Government Opinion Form Approval - Applebees Neighborhood Grill & Bar, 115 Tunnel Road, Asheville, N. C. - "On Premises" Beer/Wine and Mixed Beverages Permit.

City Manager Doug Bean presented an ABC Local Government Opinion Form Approval for Applebees Neighborhood Grill & Bar, 115

Tunnel Road, Asheville, N. C. for "On Premises" Beer/Wine and Mixed Beverages Permit.

Mr. Bean said after researching the matter it was determined that the N.C. General Statute require local government board approval and the authority can not be delegated. He said Council only needs to take action if they wish to deny a permit - no action indicates approval.

Council took no action thereby approving the ABC Local Government Opinion Form for East Village Delicatessen & Grille, 1177 Tunnel Road, Asheville, N. C. for "On Premises" Beer/Wine license.

C. ABC Local Government Opinion Form Approval - BP Food Mart & Service Station, 4 Tunnel Road, Asheville, N. C. - "Off Premises" Beer/Wine Permit.

City Manager Doug Bean presented an ABC Local Government Opinion Form Approval for BP Food Mart & Service Station, 4 Tunnel Road, Asheville, N. C. for "Off Premises" Beer/Wine Permit.

Mr. Bean said after researching the matter it was determined that the N.C. General Statute require local government board approval and the authority can not be delegated. He said Council only needs to take action if they wish to deny a permit - no action indicates approval.

Mr. Bean said staff recommends disapproval based on violations of Fire/Building Codes and violations of the Sign Ordinance.

Councilman Bratton moved to recommend that the N. C. Alcoholic Beverage Control Commission disapprove the application of the BP Food Mart & Service Station located at 4 Tunnel Road for an ABC Permit to sell "Off Premises" beer and wine based on violations noted in staff reports marked Exhibits "A", "B" and "C". This motion was seconded by Councilman Price and carried unanimously.

D. Chris JoHansen - Commendation to City for work done on Walnut Street and Spruce Street.

Mr. Chris JoHansen, property owner and resident of Downtown Asheville, commended the City Council and the City workers for the work done on Walnut and Spruce Streets. He said the work looks wonderful and it would be great to have all the streets look this good.

E. Dee Williams - Request to Pave Wyoming Road.

Dee Williams said pot holes on Wyoming Road need to be repaired, but that the street really needs to be repaved.

The City Manager said the Public Works Department staff will be asked to meet with residents to explain the process for street paving.

F. Claims - Thomas Lawrence (Streets); Wilfred Guy (Streets); John Putnam (Sewer); Kermit Parker (Sewer); and Bruce Young (Streets).

City Manager Doug Bean said claims were received from Thomas Lawrence, Wilfred Guy, John Putnam, Kermit Parker, and Bruce Young.

He said these claims have been referred to the appropriate insurers for investigation.

VII. ADJOURNMENT.

Vice Mayor Moore adjourned the meeting at 4:50 P.M.

V. M. Michaloff
MAYOR

William F. Wolcott
CITY CLERK

CITY OF ASHEVILLE
PURCHASING DIVISION
BID SUMMARY

BID REQUEST NO. 373-91 — BID OPENED: TUESDAY, OCTOBER 23, 1990 3:00 P.M.

SIXTY (60) SELF-CONTAINED BREATHING APPARATUS FOR ASHEVILLE FIRE DEPARTMENT LESS TRADE-IN FOR FORTY (40) USED 'SCOTT' II A UNITS

			ASHEVILLE FIRE & SAFETY ASHEVILLE, N. C.	GASTONIA FIRE & SAFETY GASTONIA, N. C.	VALLEN SAFETY CHARLOTTE, N.C.
ITEM #1:	60 EA. SELF-CONTAINED BREATHING APPARATUS	MAKE:	Scott	Scott	Scott
		MODEL:	#900339-04	#900339-04	#2.2
		UNIT PRICE:	$1,115.00	$1,153.70	$1,195.00
		AMOUNT:	$66,900.00	$69,222.00	$71,700.00
ITEM #1-A:	LESS TRADE-IN OF 40 USED SCOTT II UNITS	UNIT PRICE:	No Trade-In	($50.00)	($75.00)
		AMOUNT:		($2,000.00)	($3,000.00)
		NET BID:	$66,900.00	$67,222.00	$68,700.00
OPTIONS AVAILABLE (NOT INCLUDED IN BID AMOUNT)					
	1 AIRLINE	UNIT PRICE:	$171.40	$300.80	$85.30
	2 RADIO INTERFACE	UNIT PRICE:	$633.00	$444.00	$558.00
	3 RESCUE MASK & HOSE	UNIT PRICE:	$710.00		$365.00
	4 SPARE CYLINDERS	UNIT PRICE:	$310.00	$328.00	$310.00
		BID DEPOSIT:	5% Official Check	5% Official Check	5% Bid Bond
		TERMS:	Net 30 Days	Net 30 Days	Net 30 Days
		DELIVERY:	None Stated	None Stated	30 Days

CITY OF ASHEVILLE
PURCHASING DIVISION
BID SUMMARY

BID REQUEST NO. 373-91 — BID OPENED: TUESDAY, OCTOBER 23, 1990 3:00 P.M.

SIXTY (60) SELF-CONTAINED BREATHING APPARATUS FOR ASHEVILLE FIRE DEPARTMENT LESS TRADE-IN FOR FORTY (40) USED 'SCOTT' II A UNITS

			MINE SAFETY APPLIANCES CO. PITTSBURGH, PA	*MINE SAFETY APPLIANCES CO. PITTSBURGH, PA	NATIONAL DRAEGER PITTSBURGH, PA
ITEM #1:	60 EA. SELF-CONTAINED BREATHING APPARATUS	MAKE:	MSA	MSA	Draeger
		MODEL:	#484928	#492463	#PA-80/4052616
		UNIT PRICE:	$1,214.36	$1,322.36	$1,348.50
		AMOUNT:	$72,861.60	$79,341.60	$80,910.00
ITEM #1-A:	LESS TRADE-IN OF 40 USED SCOTT II UNITS	UNIT PRICE:	($125.00)	($125.00)	No Trade-In
		AMOUNT:	($5,000.00)	($5,000.00)	
		NET BID:	$67,861.60	$74,341.60	$80,910.00
OPTIONS AVAILABLE (NOT INCLUDED IN BID AMOUNT)					
	1 AIRLINE	UNIT PRICE:	$180.00	$180.00	$257.00
	2 RADIO INTERFACE	UNIT PRICE:	$399.55 + or -	$399.55 + or -	$750.00
	3 RESCUE MASK & HOSE	UNIT PRICE:			$513.00
	4 SPARE CYLINDERS	UNIT PRICE:	$370.50	$370.50	$250.00
		BID DEPOSIT:	5% Official Check	5% Official Check	5% Bid Bond
		TERMS:	2%10 Net 30 Days	2%10 Net 30 Days	1%10 Net 30 Days
		DELIVERY:	15 Days	120 Days	30 Days

*ALTERNATE BIDS

CITY OF ASHEVILLE
PURCHASING DIVISION
BID SUMMARY

BID REQUEST NO. 373-91 — BID OPENED: TUESDAY, OCTOBER 23, 1990 3:00 P.M.

SIXTY (60) SELF-CONTAINED BREATHING APPARATUS FOR ASHEVILLE FIRE DEPARTMENT LESS TRADE-IN FOR FORTY (40) USED 'SCOTT' II A UNITS

			*NATIONAL DRAEGER PITTSBURGH, PA	*NATIONAL DRAEGER PITTSBURGH, PA	CAROLINA FIRE MASTERS BENNETTSVILLE, S.C.
ITEM #1:	60 EA. SELF-CONTAINED BREATHING APPARATUS	MAKE:	Draeger	Draeger	International Magnum
		MODEL:	#PA-80/4052614	#PA-80/4053012	#707-150-025
		UNIT PRICE:	$1,395.65	$1,472.72	$1,396.30
		AMOUNT:	$83,739.00	$88,363.20	$83,778.00
ITEM #1-A:	LESS TRADE-IN OF 40 USED SCOTT II UNITS	UNIT PRICE:	No Trade-In	No Trade-In	No Trade-In
		AMOUNT:			
		NET BID:	$83,739.00	$88,363.20	$83,778.00
OPTIONS AVAILABLE (NOT INCLUDED IN BID AMOUNT)					
	1 AIRLINE	UNIT PRICE:	$257.00	$257.00	$171.50
	2 RADIO INTERFACE	UNIT PRICE:	$750.00	$750.00	$699.00
	3 RESCUE MASK & HOSE	UNIT PRICE:	$513.00	$513.00	$275.00
	4 SPARE CYLINDERS	UNIT PRICE:	$250.00	$250.00	$440.00
		BID DEPOSIT:	5% Bid Bond	5% Bid Bond	5% Cashiers Check
		TERMS:	1%10 Net 30 Days	1%10 Net 30 Days	Net 30
		DELIVERY:	30 Days	30 Days	None Stated

*ALTERNATE BIDS

Tuesday - January 22, 1991 - 4:00 P.M.

Regular Meeting

Present: Vice-Mayor William G. Moore, Presiding; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Mayor Kenneth M. Michalove (illness)

INVOCATION

The invocation was given by Councilman Price.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the minutes of the January 15, 1991 meeting as submitted.

I. PROCLAMATIONS:

II. PUBLIC HEARINGS:

III. OLD BUSINESS:

A. Ordinance No. 1888 - Second reading of an ordinance updating the provisions regarding the regulation of pawnbrokers.

Vice-Mayor Moore noted that the second reading of this ordinance would be postponed until February 12, 1991 giving the City staff an opportunity to meet with local pawnbrokers and receive input into the regulations.

B. Ordinance No. 1889 - Second reading of an ordinance amending Sections 28-81.2, 28-81.3, and 28-81.4 of Article IV, Speed Regulations of Chapter 28 of the Code of Ordinances of the City of Asheville. (Speed Limit Reduction on Aurora Drive, Lakewood Drive, Wyoming Road, and Forest Hill Drive)

Vice-Mayor Moore noted that this action will reduce speed limits as follows:

Aurora Drive - 25 mph to 20 mph
Lakewood Drive - 35 mph to 25 mph
Wyoming Road - 35 mph to 30 mph
Forest Hill Drive - 30 mph to 25 mph

Barbara Penland, with the Kenilworth Residents Association, read a letter from the Association stating that the majority of the residents support adoption of the ordinance. She said the Association has also requested that Council include the posting of a 25 mph limit on Castle Street and post a "Children Playing" Sign on Forest Hill Drive 200 yards from the intersection of Castle Street as you drive from Biltmore Avenue.

Peter Lowell, Lakewood Drive, also spoke in support of the ordinance.

The City Manager said the City staff would look into the request to reduce the speed limit on Castle Street and the posting of a "Children Playing" Sign on Forest Hill Drive.

Vice-Mayor Moore said the ordinance was previously read on first reading and would not be read in its entirety.

On a roll call vote of 6-0, Ordinance No. 1889 passed on second reading.

IV. NEW BUSINESS:

A. Resolution authorizing the City Manager to enter into an agreement with Marshall and Stevens, Inc. for providing a property valuation survey of all City-owned properties and facilities.

Upon inquiry of Councilman Ellison, the City Manager said following a two-year consultant review of the City's Risk Management needs, it was determined that current stated values to insurers for buildings were of questionable origin and accuracy. He said upon renewal of property coverage on September 1, 1991, the City's new carrier was advised of that and agreed to insure with the understanding that the City would develop accurate values as soon as possible.

The City Manager said Marshall and Stevens performed a similar appraisal for the City approximately sixteen years ago but values were not updated for inflation and increased construction costs. He said the proposal would give current market values for "new for old" replacement and for the City Hall Building an additional value for "reproduction/as is" cost.

A lengthy discussion was held relative to local appraisers being given an opportunity to submit a proposal on the property valuation survey.

After discussion it was the consensus of Council to defer action on this resolution for two (2) weeks.

B. **Ordinance No. 1890 - Budget ordinance amendment for Downtown Development Fund Streetscape Plan.**

The City Manager said the uncommitted balance of $320,107 in the Downtown Development Fund has been reserved for streetscape improvements in the City's Capital Improvement Plan. He said this action appropriates the reserve funds for the following:

Streetscape 90	78 Grates	$26,000
	25 Benches	10,000
	20 Trash Receptacles	8,000
	6 Tree Guards	2,000
	Trees	1,500
	Planters	1,500
60 Biltmore Streetscape		$12,000
Patton Avenue Corridor Design		60,000
Patton Avenue Corridor Streetscape Urban Trail		5,000
Decorative Lighting Collar		12,000
Broadway (assumes PW bond money for street/sw)		50,000
Rankin Planters		4,000
Haywood Street Decorative (assumes PW bond money for street/sw)		25,000
Walnut Street Planting/Landscape		10,000
Public Information Signage		20,000
Pritchard Park Renovation		72,607

Vice-Mayor Moore said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Bratton moved for the adoption of Ordinance No. 1890. This motion was seconded by Councilman Ellison.

On a roll call vote of 6-0, Ordinance No. 1890 passed on first and final reading.

Ordinance Book No. 12 - Page 312

C. **Resolution No. 91-6 - Resolution authorizing City Manager to enter into a contract for fire protection services for the VA Medical Center.**

The City Manager said the City of Asheville has been providing fire protection to the Veterans

Administration Medical Center since 1976. This contract charges the VA approximately the same rate for all buildings not within the City. The present contract expires on January 31, 1991. He said the proposed contract is for a three (3) year period and the City will charge $106,000 to provide fire protection services through September 30, 1993.

Jim Christian with the VA Medical Center said they concur with the provisions in the proposed contract. He said he hoped that within the next three (3) years the City will consider annexation of this property.

Vice-Mayor Moore said copies of the resolution had previously been distributed to Members of Council, and the resolution would not be read unless there was a specific request to do so.

Upon motion of Price, seconded by Councilman Ellison, Resolution No. 91-6 was unanimously adopted.

Resolution Book No. 18, Page 325.

D. Ordinance amending Chapter 17A (Massage Parlors and Health Studios) of the Code of Ordinances of the City of Asheville.

Vice-Mayor Moore said Section 17A-16 of the Code of Ordinances of the City of Asheville requires any person seeking to engage in the trade or profession of masseur or masseuse in the City of Asheville to first submit a $1,000 bond payable to the City before a license to engage in such profession is issued. This ordinance amendment would allow any person desiring to engage in the trade or profession of masseur or masseuse to post a $1,000 bond or maintain liability insurance in minimum amount of $100,000 to $300,000.

The City Attorney said the massage therapists have requested several amendments to the Massage Parlor Ordinance and a meeting is scheduled for the therapists and the City Staff to discuss these proposed changes. He said the therapists have requested that this proposed amendment be deferred until after the meeting.

Craig Ellis, Massage Therapist, reiterated the comments of the City Attorney, emphasizing the need to update the current ordinance.

Vice-Mayor Moore said the proposed ordinance would be deferred until further recommendations are received from the City Attorney.

E. **Ordinance No. 1891 - Ordinance prohibiting structures within the public rights-of-way.**

The City Attorney said this ordinance will repeal Section 25-17 (Encroachment Agreements) of the Code of Ordinances of the City of Asheville and substitute new language prohibiting and/or regulating structures within the public rights-of-way. He outlined the new regulations.

Vice-Mayor Moore said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Ellison moved for the adoption of Ordinance No. 1891. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1891 passed on first reading.

V. CONSENT:

A. **Resolution No. 91-7 - Resolution authorizing the Mayor to execute a right-of-way agreement with Roger Eugene Pinner and wife, Wanda B. Pinner.**

SUMMARY: Roger Eugene Pinner and wife, Wanda B. Pinner are the owners of certain lands located in Limestone Township, Buncombe County, North Carolina, said property being described in deeds recorded in Deed Book 1173 at Page 442 and Deed Book 1302 at Page 771 of the Buncombe County Registry. The City is the owner of certain lands that lie to the north and east of the property of the Pinners. The Pinners have agreed to sell a portion of their property (9.894 acres) to the City for the Asheville Regional Airport. As part of the consideration for the sale, the Pinners have requested that the City convey to them a nonexclusive road right-of-way across the lands of the City for access to their remaining property. This resolution would authorize the Mayor to execute that right-of-way agreement.

Resolution No. 18 Page No. 326

B. **Rescheduling of public hearing relative to Hillside Development Regulations Ordinance for March 26, 1991.**

SUMMARY: On October 30, 1991, the public hearing on the Hillside Development Regulations

Ordinance was continued until December 18, 1990. The public hearing was again postponed to be heard on January 29, 1991. It was Council's desire to have this public hearing when they consider street grade regulations. The City Council will not meet on January 29, 1991; therefore, this public hearing needs to be continued again without further advertisement.

C. **Scheduling of public hearing relative to expansion proposal - extraterritorial zoning jurisdiction of the City of Asheville - West Area - for February 19, 1991.**

SUMMARY: The Asheville Planning and Zoning Commission has recommended that the area specified as the "West Area" be included in the City's extraterritorial zoning jurisdiction and that specific zoning classification be assisted to the property included in the proposal.

Upon motion of Councilman Frank, seconded by Councilman Bratton, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

A. **ABC Local Government Opinion Form Approval - Gold Rock Ventures, Inc., Comfort Inn; 800 Fairview Road; Asheville, N. C. - Permanent Special Occasion Permit**

City Manager Doug Bean presented an ABC Local Government Opinion Form Approval for Gold Rock Ventures, Inc., Comfort Inn, 800 Fairview Road; Asheville, N. C. for a "Permanent Special Occasion Permit."

Mr. Bean said after researching the matter it was determined that the N.C. General Statutes require local governing board approval and the authority can not be delegated. He said Council only needs to take action if they wish to deny a permit - no action indicates approval.

Council took no action thereby approving the ABC Local Government Opinion Form Approval for Gold Rock Ventures, Inc., Comfort Inn, 800 Fairview Road; Asheville, N. C. for a "Permanent Special Occasion Permit."

B. **ABC Local Government Opinion Form Approval - J & J Corner Store, (Jasper Vonzo Plemmons, Applicant), 704 Riverside Drive, Asheville, N. C. - "Off Premises" Beer/Wine Permit.**

City Manager Doug Bean presented an ABC Local Government Opinion Form Approval for J & J Corner Store (Jasper Vonzo Plemmons, Applicant) - 704 Riverside Drive - Asheville, N. C. for an "Off Premises" Beer/Wine Permit.

Mr. Bean said after researching the matter it was determined that the N.C. General Statutes require local governing board approval and the authority can not be delegated. He said Council only needs to take action if they wish to deny a permit - no action indicates approval.

Mr. Bean said staff recommends disapproval based on Police Department's investigations.

Councilman Price moved to recommend that the N. C. Alcoholic Beverage Control Commission disapprove the application for J & J Corner Store (Jasper Vonzo Plemmons, Applicant) - 704 Riverside Drive - Asheville, N. C. for an "Off Premises" Beer/Wine Permit. This motion was seconded by Councilman Bratton and carried unanimously.

C. Council Meeting - January 29, 1991 - No Meeting

Vice-Mayor Moore announced that the regular meeting scheduled for January 29, 1991 has been cancelled. He said Council will be holding their Annual Retreat on January 29th and 30th at Highland Lake Inn in Hendersonville, North Carolina.

D. Indemnification Agreement - Training Equipment - Firemen's Self-Contained Breathing Apparatus

At the request of the City Attorney, Councilman Price moved to authorize the City Manager to sign an indemnification agreement in favor of National Draeger Company related to the use of training equipment for the self-contained breathing apparatus for the Fire Department personnel. This motion was seconded by Councilman Bratton and carried unanimously.

E. Claims - Leona Robinson (Water) - Emily Pomfrey (Civic Center) - Steve McCandless (Water Engineering) - Dorothy Isaacs (Sanitation) - Leland & Nora Jones (Streets)

The City Manager said claims were received from Leona Robinson, Emily Pomfrey, Steve McCandless, Dorothy Isaacs, and Leland and Nora Jones.

Vice-Mayor Moore said these claims have been referred to the appropriate insurers for investigation.

F. **Lawsuits - John F. Tyndall, et al. (Challenge to annexation of West II annexation area) - Thomas L. Thrash, et al. (Challenge to annexation of West II annexation area)**

The City Manager said on January 17, 1991 the City was served with a lawsuit involving John F. Tyndall, et al and Thomas L. Thrash, et al. relative to challenge to annexation of West II annexation area.

Vice-Mayor Moore said this lawsuit has been referred to the appropriate legal counsel for action.

VII. ADJOURNMENT.

Vice-Mayor Moore adjourned the meeting at 5:15 p.m.

H. Lee Mitchelson
MAYOR

William T. Wolcott, Jr.
CITY CLERK

THE CITY COUNCIL MEETING

SCHEDULED FOR

JANUARY 29, 1991

HAS BEEN CANCELLED

FOR THE CITY COUNCIL RETREAT

W. M. Nicholas

MAYOR

CITY CLERK

Tuesday - February 5, 1991

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Mayor Michalove.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the minutes of the January 22, 1991 meeting as submitted.

I. PROCLAMATIONS:

A. B*E*S*T Quarterly Winner Award - Officer Gary Davis - Police Department

The City Manager presented the B*E*S*T Quarterly Winner Award to Officer Gary Davis. He said the B*E*S*T Committee met on January 8, 1991 and Gary Davis was chosen as the 4th Quarter B*E*S*T winner out of 20 candidates.

The City Manager said Officer Davis went the extra mile at the bus station in helping a blind, deaf mute find his relatives. Establishing communication required significant perserverance on Officer Davis' part. By writing with his fingers on the officers hand and patting twice between words, Officer Davis was able to determine who the individual's relatives were and make arrangements to have him picked up.

B. Proclamation - "Patriotism Week" - February 18 - 25, 1991

Mayor Michalove read a proclamation for "Patriotism Week" for February 18 - 25, 1991 and presented a copy to Walter Fink with the Elk's Lodge #608.

II. PUBLIC HEARINGS:

III. OLD BUSINESS:

A. **Ordinance No. 1891 - Second reading of an ordinance prohibiting structures within the public rights-of-way.**

Mayor Michalove said this ordinance will repeal Section 25-17 (Encroachment Agreements) of the Code of Ordinances of the City of Asheville and substitute new language prohibiting and/or regulating structures within the public rights-of-way. This ordinance was read on first reading on January 22, 1991.

Mayor Michalove said the ordinance was previously read on first reading and would not be read in its entirety.

On a roll call vote of 7-0, Ordinance No. 1891 passed on second reading.

B. **Ordinance No. 1889 - Third reading of an ordinance amending Sections 28-81.2, 28-81.3, and 28-81.4 of Article IV, Speed Regulations of Chapter 28 of the Code of Ordinances of the City of Asheville. (Speed Limit Reduction on Aurora Drive, Lakewood Drive, Wyoming Road, and Forest Hill Drive)**

Mayor Michalove said this action will reduce speed limits as follows:

Aurora Drive - 25 mph to 20 mph
Lakewood Drive - 35 mph to 25 mph
Wyoming Road - 35 mph to 30 mph
Forest Hill Drive - 30 mph to 25 mph

Mayor Michalove said the ordinance was previously read on first and second reading and would not be read in its entirety.

Vice-Mayor Moore moved to amend Ordinance No. 1889 to include the speed limit reduction on Castle Street from 35 mph to 20 mph. This motion was seconded by Councilman Bratton and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1889 passed on third and final reading.

Ordinance Book No. 12 - Page 310 - 311

IV. NEW BUSINESS:

A. **Ordinance No. 1892 - Budget Ordinance amendment to appropriate bond revenues, contributions from other funds and bond interest earnings to street and sidewalk contracts.**

The City Manager said this ordinance appropriates all street and sidewalk bond revenues, contributions from the General Fund and bond investment earnings to current and anticipated street and sidewalk projects.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Price moved for the adoption of Ordinance No. 1892. This motion was seconded by Vice-Mayor Moore.

On a roll call vote of 7-0, Ordinance No. 1892 passed on first and final reading.

Ordinance Book No. 12 - Page 314

B. **Final Plat approval for Blake Mountain Estates Subdivision off Blake Mountain Drive and Galloway Drive.**

Don Sherrill, with the Planning Department, said Phase I of Blake Mountain Estates subdivision consists of 27 lots and includes the construction of approximately 2,150 lineal feet of new road. The developer proposes to serve the lots with individual wells and septic systems. The preliminary plan for the subdivision was approved by the Planning and Zoning Commission on March 7, 1990 with two contingencies: 1) A cul-de-sac turnaround be placed at the end of Galloway Drive; and 2) A variance granted by the City Council for those sections of the street with grades in excess of 12%. Both of these contingencies have been met by the developer.

He said the developer has installed a sanitary sewer line to serve five (5) of the lots. Plans for the construction of this line have not been approved by the City or the State, as required by local and state regulations. The developer has agreed not to tap into this sewer line until the plans have been approved, the line has been inspected and approved, and the sewer line accepted by MSD.

Mr. Sherrill said the staff is also recommending a contingency for a maintenance easement for a water line that runs along the roadway.

After discussion, Vice-Mayor Moore moved to approve the final plat of the Blake Mountain Estates Subdivision contingent upon the developer providing a maintenance easement for the water line along the roadway; said easement to be approved by the City Attorney. This

motion was seconded by Councilman Ellison and carried unanimously.

V. CONSENT:

A. Scheduling of public hearing relative to rezoning property located at 23 and 17 Eloise Street and 136 Merrimon Avenue - Petitioners - Deal Buick for February 19, 1991.

SUMMARY: The Asheville Planning and Zoning Commission on January 9, 1991, reviewed and recommended approval of rezoning Ward 2, Sheet 5, Lots 56, 57, and a portion of 64 from R-3 Residential District to CH Commercial Highway District.

B. Scheduling of public hearing relative to amending Article 7, Chapter 30 of the Zoning Ordinance relative to Conditional Use Permits for February 19, 1991.

SUMMARY: The Asheville Planning and Zoning Commission on January 9, 1991, reviewed and recommended approval of the amendment to Article 7 of Chapter 30. The proposed amendment acknowledges that conditional use permits for certain uses are to be approved City Council.

C. Resolution No. 91-9 - Resolution appointing member to the Metropolitan Sewerage District Board.

SUMMARY: This action will appoint Charles Penny as a member of the Metropolitan Sewerage District Board to serve for a three (3) year term, term expiring January 19, 1994.

Resolution Book No. 18 - Page 328

D. Resolution No. 91-10 - Resolution appointing member to the Downtown Development Commission.

SUMMARY: This action will appoint Vic Trantham as a member of the Asheville Downtown Commission.

Resolution Book No. 18 - Page 329

E. Scheduling of public hearing relative to amending Ordinance No. 1172, the Flood Plain Regulations of the City of Asheville, for February 19, 1991.

SUMMARY: The Federal Emergency Management Agency and the State Emergency Management Agency are requiring certain amendments to the City's ordinance to bring it into compliance with federal and state guidelines.

Upon motion of Vice-Mayor Moore, seconded by Councilman Bratton, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

A. Claims - Don Dupree (Streets) - Fred Essig (Wastewater) - Mildred Young (Water) - Louis Rice, Jr. (Sanitation) - Robin Tolleson (Fire Department) - City of Asheville (City vehicle damaged) - City of Asheville (City cellular phone stolen) - Michaelene Lord (Sanitation) - City of Asheville (City vehicle damaged)

The City Manager said claims were received from Don Dupree, Fred Essig, Mildred Young, Louis Rice, Jr., Robin Tolleson, City of Asheville, and Michaelene Lord.

Mayor Michalove said these claims have been referred to the appropriate insurers for investigation.

Lawsuits - BASF Corporation (Challenge to annexation of West II annexation area)

The City Manager said on January 22, 1991 the City was served with a lawsuit involving BASF Corporation - challenge to annexation of West II annexation area.

Mayor Michalove said the lawsuit has been referred to the appropriate legal counsel for action.

B. Council Meetings - Alternate Formal/Informal Meetings

Mayor Michalove said at the Annual Council Retreat a decision was made to have alternate formal Council meetings and Council work sessions. He said Council would meet formally on the first and third Tuesdays at 4:00 p.m. and informally on the second and fourth Tuesdays at 2:00 p.m. for work sessions.

C. Annual Board and Commission Appreciation Luncheon

Mayor Michalove said the Annual Board and Commission Appreciation Luncheon will be held at the Asheville Civic Center Banquet Room on March 19, 1991 at 12:00 Noon.

D. Chris JoHansen - Comments

Upon inquiry of Chris JoHansen, Mayor Michalove said when the decisions regarding the alternate formal/informal meetings are "fine-tuned" the public would be informed.

Mr. JoHansen commended members of Council for streamlining the meeting schedules.

E. **Ralph Bishop - Lottery Sales**

Ralph Bishop spoke to members of Council relative to the lottery sales in the City of Asheville.

VII. ADJOURNMENT

Mayor Michalove adjourned the meeting at 4:40 p.m.

H. M. Michalove
MAYOR

William F. Moleatta
CITY CLERK

Tuesday - February 12, 1991 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Vice-Mayor Moore.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the minutes of the February 5, 1991 meeting.

I. PROCLAMATIONS:

A. **Presentation to Sgt. 1st Class Royster.**

Mayor Michalove introduced Sgt. 1st Class Royster, Army Recruiter for the Asheville Area, who spoke to members of Council on the importance of encouraging recruitment into the Armed Forces.

B. **Proclamation - "Salute to Hospitalized Veterans Week" - February 10 - 16, 1991.**

Mayor Michalove read a proclamation for "Salute to Hospitalized Veterans Week" February 10 - 16, 1991 and presented a copy to Darlene Kristin, Volunteer Coordinator for the VA Hospital.

C. **Proclamation - "Black History Month" - February, 1991.**

Mayor Michalove read a proclamation for "Black History Month" February, 1991 and presented a copy to Phyliss Sherrill, with the Asheville-Buncombe Community Relations Council.

D. **Proclamation - "WWNC Loves Wonderful Western North Carolina Week" - February 12 - 19, 1991.**

Mayor Michalove read a proclamation for "WWNC Loves Wonderful Western North Carolina Week" - February 12 - 19, 1991 and presented a copy to Bud Polacheck with WWNC.

Mr. Polacheck said WWNC is celebrating their 65th Anniversary and is beginning a year long campaign for "WWNC Loves Wonderful Western North Carolina." He highlighted events for the campaign during the year. He also presented a large cake to members of Council.

E. **Proclamation - "Buckle Up for Love" February 10 - 16, 1991**

Mayor Michalove read a proclamation for "Buckle Up for Love" February 10 - 16, 1991 and presented a copy to Luke Bigalow with the Asheville Police Department.

II. PUBLIC HEARINGS:

A. **Public hearing relative to rezoning property located on Forest Hill Drive for Memorial Mission Hospital.**

Mayor Michalove said the Asheville Planning and Zoning Commission on September 5, 1990, reviewed and recommended denial of rezoning Ward 1, Sheet 8, Lot 31-1/2 (between Biltmore Avenue and Forest Hill Drive) from R-3 Residential District to OI Office Institutional. The petitioner has elected to appeal the decision by the Planning and Zoning Commission to City Council.

Jim Taylor, with the Memorial Mission Hospital, read the following statement:

Upon inquiry of Mayor Michalove, the City Attorney advised that since the petitioner withdrew the rezoning request there is no reason to continue with a public hearing since there would be no action Council could take on the issue. He said the petitioners, pursuant to the Zoning Ordinance, can not request the rezoning again for a period of one (1) year.

After discussion, Jim Taylor with the Memorial Mission Hospital, said the Hospital would commit that they would not request the rezoning again for one (1) year from today's date, February 12, 1991.

Jim Salaski, President of the Kenilworth Residents Association, said they are disappointed that this issue can not be settled at today's meeting since the residents are prepared to make a presentation to Council.

After discussion, Mayor Michalove suggested that within the next six (6) weeks that Memorial Mission Hospital and the Kenilworth Residents Association schedule a meeting to begin a dialog between the hospital and the residents. He requested that members of Council be informed as to when the meeting is to be held in order that they could attend if they so desired.

III. OLD BUSINESS:

A. **Ordinance No. 1891 - Third reading of an ordinance prohibiting structures within the public rights-of-way.**

Mayor Michalove said this ordinance will repeal Section 25-17 (Encroachment Agreements) of the Code of Ordinances of the City of Asheville and substitute new language prohibiting and/or regulating structures within the public rights-of-way. This ordinance was read on first reading on January 22, 1991 and on second reading on February 5, 1991.

Upon the request of the City Attorney, Councilman Price moved to amend Ordinance No. 1891 to add "The City Manager or his designee may grant a property owner an encroachment agreement only if the encroachment can be allowed without detriment to the health, safety and welfare of the general public." to Section 1(E)(4). This motion was seconded by Vice-Mayor Moore and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1891 passed on third and final reading.

B. **Ordinance No. 1888 - Second reading of an ordinance updating the provisions regarding the regulation of Pawnbrokers.**

Mayor Michalove said the ordinance updates provisions regarding the regulation of pawnbrokers. The new language requires the owner/manager to provide a records check for the past ten years, and stipulates that the pledgor sign and thumb print the pawn ticket. It also requires a fee for the license, in addition to the Privilege License fee, and provides for an appeals process.

The City Manager said the staff met with the local pawnbrokers and they are in agreement with the ordinance except the provisions that require "thumb prints." He said they felt that requirement is an excessive burden to have for just the pawnbrokers. He said staff would recommend the deletion of that requirement from the ordinance.

After discussion, Vice-Mayor Moore moved to amend Ordinance No. 1888 to delete the provisions requiring the thumbprint on tickets. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 7 - 0, Ordinance No. 1888 passed on second reading.

Councilman Ellison moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1888. This motion was seconded by Vice-Mayor Moore and carried unanimously.

On a roll call vote of 7 - 0, Ordinance No. 1888 passed on third and final reading.

Ordinance Book No. 12 - Page 301 - 309

V. NEW BUSINESS:

A. **Ordinance No. 1893 - Ordinance amending Section 25-16 of the Code of Ordinances of the City of Asheville regulating parades, picket lines and group demonstrations.**

The City Attorney said Subsection (c) (3) of Section 25-16 of the Code of Ordinances of the City of Asheville authorizes the Chief of Police or his designee to refuse to issue permits for parades or group demonstrations to be held at the same time and place as those designated in a permit issued pursuant to a written application previously received by the Chief of Police or his designee. Subsection (g) (4) of

Section 25-16 of the Code however, provides that the Chief of Police shall allot time to each group of pickets for the use of such sidewalk on an equitable basis if pickets promoting different objectives desire to use the same sidewalk for picketing and such use would result in the presence of more than ten (10) pickets thereon. These two subsections conflict with each other. This ordinance amendment will eliminate that conflict.

John Eubanks and Mike Creul from Toccoa, Ga. complained to members of Council regarding their arrest on October 6 for holding a protest without a permit. They said they were carrying signs on South Tunnel Road alongside the Asheville Mall urging individuals to vote for Senator Jesse Helms and they technically weren't demonstrating or holding a campaign rally - as required by the parade ordinance - but demonstrating for an individual. They asked that members of Council address their concerns in this particular ordinance.

Councilman Price moved for the adoption of Ordinance No. 1893. This motion was seconded by Vice-Mayor Moore.

On a roll call vote of 7-0 Ordinance No. 1893 passed on first reading.

Councilman Ellison moved to suspend the rules and proceed to the second reading of Ordinance No. 1893. This motion was seconded by Vice-Mayor Moore and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1893 passed on second reading.

Councilman Ellison moved to suspend the rules and proceed to the third reading of Ordinance No. 1893. This motion was seconded by Vice-Mayor Moore and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1893 passed on third and final reading.

Ordinance Book No. 12 - Page 315

B. Resolution No. 91-11 - Resolution authorizing the Mayor to execute a contract with the Department of Transportation for railroad crossing signals in Asheville.

The City Manager said this action will provide for the installation of railroad crossing signals at the intersection of Stoner Road and the Southern Railroad.

Mayor Michalove said copies of the resolution had previously been distributed to members of Council, and the resolution would not be read unless there was a specific request to do so.

Upon motion of Vice-Mayor Moore, seconded by Councilman Ellison, Resolution No. 91-11 was unanimously adopted.

Resolution Book No. 18 - Page 330

C. **Resolution No. 91-12 - Resolution appointing a member to the Planning and Zoning Commission.**

Mayor Michalove said this action will appoint Dr. Albert Anderson as a member of the Planning and Zoning Commission to serve the unexpired term of Wanda Henry Coleman, term expiring August 14, 1991.

Upon motion of Vice-Mayor Moore, seconded by Councilman Ellison, Resolution No. 91-12 was unanimously adopted.

Resolution Book No. 18 - Page 331

D. **Report on Sale of Personal Property by Purchasing Director.**

The City Manager said Resolution No. 85-99 adopted by City Council on June 25, 1985 established procedures for disposing of personal property valued at less than five hundred dollars ($500.00) for any one item or group of items. The regulations require the Purchasing Director to make a written report to City Council as to any property disposed of on the first day of February for the period from July 1 through December 31 of the prior year.

The City Manager reported that the Purchasing Director sold round tables that were in the Civic Center to the YMI Cultural Center for $120.00 on December 14, 1990.

V. CONSENT:

VI. OTHER BUSINESS:

REPORT OF GROUP DEVELOPMENT ACTIONS BY THE PLANNING AND ZONING COMMISSION

Don Sherrill from the Planning Department, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. She said in accordance with the new procedure, the action of the Commission shall be final unless the City Council determines at their meeting to

schedule a public hearing on the matter. She said the following action was taken by the Planning and Zoning Commission at their meeting on February 6, 1991.

HAW CREEK MEWS APARTMENTS - NEW HAW CREEK ROAD

Ms. Tallerday said the Asheville Planning and Zoning Commission on February 1, 1989, reviewed and approved the site plan of **Haw Creek Mews Apartments - New Haw Creek Road** subject to three (3) contingencies:

1. Submit and receive approval of engineered drawings from appropriate City staff, the Metropolitan Sewerage District (MSD), and the North Carolina Department of Transportation (NCDOT) prior to issuance of any required permits. The final approved plans shall meet all City, State and Federal regulations.

2. The developer shall meet and adhere to the conditions set forth in Michael Brookshire's January 22, 1991 letter regarding the construction and land disturbance activity within the easement for the thirty-six (36) inch waterline that crosses the property.

3. No three (3) story buildings shall be constructed adjacent to any property line.

Councilman Price moved to schedule a public hearing relative to the group development review of the Haw Creek Mews Apartments for March 5, 1991. This motion was seconded by Vice-Mayor Moore and carried unanimously.

LAKEVIEW MOBILE HOME PARK EXTENSION (RESUBMITTAL)

Don Sherrill said the Asheville Planning and Zoning Commission on February 6, 1991, reviewed and approved the site plan of **Lakeview Mobile Home Park Extension (Resubmittal)** subject to the following contingencies:

1. Approval by City Council of a variance to permit the placement of seven (7) mobile homes on a site of 47,700 square feet; and

2. All relocated mobile homes shall be at least twenty (20) feet from internal streets.

Councilman Ellison moved to schedule a public hearing relative to the group development review of the Lakeview Mobile Home Park Extension for March 5, 1991. This motion was seconded by Councilman Price and carried unanimously.

(3) INGLES MARKET ON CORNER OF HAYWOOD ROAD AND S. LOUISIANA AVENUE

Don Sherrill said the Asheville Planning and Zoning Commission on February 6, 1991, reviewed and approved the site plan of Ingles Market on Corner of Haywood Road and S. Louisiana Avenue subject to the following contingencies:

1. NCDOT and City approval of driveway entrances

Councilman Price moved to schedule a public hearing relative to the group development review of the Ingle's Market on Corner of Haywood Road and S. Louisiana Avenue for March 5, 1991. This motion was seconded by Councilman Frank and carried unanimously.

ABC PERMITS - APPROVAL/DISAPPROVAL

The City Manager presented the following ABC Permits:

1. Off The Wall - 9 Kenilworth Knoll

A. Fire Department - Fire Code Violations (defective emergency lighting and exit lights)

B. Collections Division - Unable to obtain application for City beer and wine license.

C. Police Department - Applicant has 2 charges for DWI and his drivers license is currently revoked. No other criminal charges are noted. No complaint reports have been filed for this location during the past year.

Councilman Bratton moved to disapprove the ABC Permit for Off the Wall until all code violations are corrected. This motion was seconded by Councilman Ellison and carried unanimously.

2. Asheville Beverage, Inc. - 61 N. Lexington Avenue

Establishments meets requirements of all departments. There are no criminal or driving records on applicants, and no complaints reports have been filed for this location during the past year.

Council approved the ABC Permit by taking no action.

3. D.J.'s Burger Bar - 1 Haywood Road

A. Inspections Division - Electrical and plumbing violations - improperly installed circuit in panel and flood light circuit on front of building; water closets need to be reseated; floor around main water closet needs to be repaired to insure proper seating; and proper support of sink at bar.

B. Police Department - There is no driving or criminal record or on the applicant. A review of records for the past year indicates three (3) complaints were filed - one for forgery and two for burglary.

Councilman Bratton moved to disapprove the ABC Permit for D. J.'s Burger Bar until all code violations are corrected. This motion was seconded by Councilman Ellison and carried unanimously.

4. The McTap - 633 Merrimon Avenue

A. Fire Department - Fire Code violations (remove two latch-type locks on approved means of egress doors).

B. Police Department - Applicant has no criminal record, but does have one (1) DWI and two speeding charges. No complaints reports have been filed for this location during the past year.

Councilman Bratton moved to disapprove the ABC Permit for The McTap until all code violations are corrected. This motion was seconded by Councilman Ellison and carried unanimously.

5. Southern Appalachian Lesbian and Gay Alliance

A. Inspections Division - Electrical and plumbing violations (improper ground on counter-top outlets and open sewer under kitchen sink).

B. Police Department - Applicant has no criminal or driving record. A review of records for the past year indicates five (5) complaints were filed - three forgeries, one fraud, and one robbery.

Councilman Bratton moved to disapprove the ABC Permit for the Southern Appalachian Lesbian and Gay Alliance until all code violations are corrected. This motion was seconded by Councilman Ellison and carried unanimously.

Claims -T. Edmund Whitmire (Water) -William Cahill (Wastewater) - Rebecca D. Edwards (Water) - City of Asheville (City vehicle damaged)

The City Manager said claims were received from T. Edmund Whitmire, William Cahill, Rebecca D. Edwards, and the City of Asheville.

Mayor Michalove said the claims have been referred to the appropriate insurers for investigation.

Cancellation of Public Hearing - Hillside Development Regulations

Councilman Ellison moved to cancel the public hearing relative to Hillside Development Regulations scheduled for March 26, 1991. This motion was seconded by Councilman Frank and carried

unanimously. This issue will be brought back to Council at a later date.

Cancellation of Public Hearing - Extraterritorial Zoning - West Area

Councilman Ellison moved to cancel the public hearing relative to Extraterritorial Zoning in the West Area scheduled for February 19, 1991. This motion was seconded by Councilman Frank and carried unanimously. This issue will be brought back to Council at a later date.

Downtown Design Review Forum - February 13, 1991 - 7:00 p.m.

Vice-Mayor Moore encouraged members of Council to attend the Downtown Design Review Forum at the Asheville-Buncombe Library - Lord Auditorium on February 13, 1991 at 7:00 p.m.

VII. ADJOURNMENT

Mayor Michalove adjourned the meeting at 5:50 p.m.

W. M. Michalove
MAYOR

William F. Holcatta
CITY CLERK

Tuesday - February 19, 1991 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Acting Corporation Counsel Patsy Brison; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Corporation Counsel William F. Slawter

INVOCATION

The invocation was given by Councilman Frank.

APPROVAL OF MINUTES

Mayor Michalove announced that approval of the minutes was being postponed until next week.

I. PROCLAMATIONS:

A. Resolution No. 91-13 - Resolution expressing appreciation to John Hillyer - for carving the City Seal.

Mayor Michalove said John Hillyer is a known and talented wood-carver and a member of the Wood-carvers' Club which meets regularly at the Harvest House Recreation Center. He graciously agreed to carve a replica of the Seal of the City of Asheville which will be mounted in the City Council Chambers of the City Hall Building.

Mayor Michalove read the resolution expressing appreciation to Mr. Hillyer for the carving.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 91-13 was unanimously adopted.

Resolution Book No. 18 - Page 332

II. PUBLIC HEARINGS:

A. Public hearing relative to rezoning property located at 23 and 17 Eloise Street and 136 Merrimon Avenue - Petitioners - Deal Buick.

Ordinance No. 1894 - An ordinance amending the Zoning Ordinance and the zoning map of the City of Asheville to

rezone property located near the intersection of Holland Street and Eloise Street (identified on the Buncombe County Tax Maps as Ward 2, Sheet 5, Lots 56, 57 and a portion of Lot 64).

Mayor Michalove opened the public hearing at 4:10 PM.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Carol Alberice, with the Planning Department said, at their meeting January 9, 1991 the Asheville Planning and Zoning Commission considered the request to rezone properties located at 136 Merrimon Avenue, 23 Eloise Street, and 17 Eloise Street from R-3 Residential to CH Commercial Highway. The property is surrounded by commercial properties and adequate infrastructure is in place to serve the needs of commercial development. The property is designated as commercial by the Asheville City Plan 2010.

A neighboring property owner spoke in opposition to the rezoning at the Planning and Zoning Commission meeting, expressing concerns regarding traffic which would be generated by the commercial use of the property. The attorney for one of the owners spoke in favor of the rezoning. After hearing the staff recommendation and the public comments, the Planning and Zoning Commission voted unanimously to recommend approval of the rezoning.

Mayor Michalove closed the public hearing at 4:16 PM.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Vice-Mayor Moore moved for the adoption of Ordinance No. 1894. This motion was seconded by Councilman Ellison.

On a roll call vote of 7-0, Ordinance No. 1894 passed on first reading.

B. **Public hearing relative to amending Article 7, Chapter 30 of the Zoning Ordinance relative to Conditional Use Permits.**

Ordinance No. 1895 - An ordinance amending Section 30-7-1 of the Code of Ordinances of the City of Asheville (Conditional Use Permits)

Mayor Michalove opened the public hearing at 4:17 PM.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Gerald Green, Senior Planner, said Section 30-7-1 of the Code of Ordinances currently stipulates that all conditional uses shall be approved by the Board of Adjustment. However, the Code of Ordinances also identifies certain conditional uses for which permits are to be approved by the City Council. These conditional uses include conservation overlay districts and limited light manufacturing uses in the Central Business District. The proposed amendment would provide City Council with authority to grant conditional use permits for certain uses.

Mayor Michalove closed the public hearing at 4:20 PM.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Bratton moved for the adoption of Ordinance No. 1895. This motion was seconded by Councilman Frank.

On a roll call vote of 7-0, Ordinance No. 1895 passed on first reading.

Councilman Price moved to suspend the rules and proceed to the second reading of Ordinance No. 1895. This motion was seconded by Vice-Mayor Moore and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1895 passed on second reading.

Councilman Price moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1895. This motion was seconded by Vice-Mayor Moore and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1895 passed on third and final reading.

Ordinance Book No. 12 - Page 317 - 330

C. **Public hearing relative to amending Ordinance No. 1172, the Flood Plain Regulations of the City of Asheville.**

Ordinance No. 1896 - An Ordinance amending Chapter 12A of the Code of Ordinances of the City of Asheville with regard to Flood Plain Regulations.

Mayor Michalove opened the public hearing at 4:22 PM.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Gerald Green, Senior Planner, said the Federal Emergency Management Agency and the State Emergency Management Agency are requiring certain amendments to the City's ordinance to bring it into compliance with federal and state guidelines.

Upon inquiry of Council, Mr. Green said no survey was taken on buildings that would be affected by these new regulations. He said, however, that existing manufactured homes will be grandfathered.

Mayor Michalove closed the public hearing at 4:28 PM.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Price moved for the adoption of Ordinance No. 1896. This motion was seconded by Councilman Bratton.

On a roll call vote of 7-0, Ordinance No. 1896 passed on first reading.

III. OLD BUSINESS:

IV. NEW BUSINESS:

A. **Resolution No. 91-14 - Resolution stating the intent of the City of Asheville to consider the annexation of an area known as the Haw Creek Area and fixing the date of a public hearing on the question of annexation for April 9, 1991.**

Patty Tallerday, from the Planning Department, said the North Carolina General Statutes provides that any municipal governing board desiring to annex territory under the provisions of GS 160A-49 shall first pass a resolution stating the intent of the municipality to consider annexation.

Ms. Tallerday outlined the specifics of the proposed annexation stating that there is approximately 400 acres; 564 people and 239 housing units. She said the land use is multifamily and churches.

Mayor Michalove said copies of the resolution had previously been distributed to members of Council, and the resolution would not be read unless there was a specific request to do so.

Upon motion of Vice-Mayor Moore, seconded by Councilman Price, Resolution No. 91-14 was unanimously adopted.

Resolution Book No. 18, Page 333 - 334

B. **Resolution No. 91-15 - Resolution authorizing the negotiation of an installment purchase agreement and directing the publication of notice with respect thereto and related matters.**

The City Manager said this resolution makes the required findings in the form and manner directed by the City's Bond Counsel authorizing the negotiation of an Installment Purchase Agreement, directing the publication of the notice of public hearing with respect thereto and filing of the required application with the Local Government Commission regarding financing the City's Public Works Facilities.

Mayor Michalove said copies of the resolution had previously been distributed to members of Council, and the resolution would not be read unless there was a specific request to do so.

Upon motion of Vice-Mayor Moore, seconded by Councilman Frank, Resolution No. 91-15 was unanimously adopted.

Resolution Book No. 18, Page 335 - 337

V. CONSENT:

A. **Resolution No. 91- 16 -Resolution of intent to close Post Street between North French Broad and Otis Streets and calling a public hearing on the question for March 19, 1991.**

SUMMARY: A petition to close Post Street between North French Broad and Otis Streets has been received from the United States of America General Services Administration. GSA is the owner of all property adjoining the street petitioned to be closed with the exception of one lot which they are in the process of purchasing but which has not been consummated at this point in time. The closing of Post Street will allow for the construction of the new Federal Building Project. All public utility companies have been requested to provide information for utility easements which may need to be retained.

Resolution Book No. 18 - Page 338

B. **Resolution No. 91-17 - Resolution of intent to close an unnamed public alley between Otis Street and Patton Avenue**

and calling a public hearing on the question for March 19, 1991.

SUMMARY: A petition to close an unnamed public alley between Otis Street and Patton Avenue has been received from the United States of America General Services Administration. GSA is the owner of all property adjoining the street petitioned to be closed with the exception of one lot which they are in the process of purchasing but which has not been consummated at this point in time. The closing of this unnamed public alley will allow for the construction of the new Federal Building Project. All public utility companies have been requested to provide information for utility easements which may need to be retained.

Resolution Book No. 18 - Page 339

C. Bids for annual contract for bituminous contract materials (asphalt).

SUMMARY: Award of term purchase contract to furnish the City's annual requirement for Bituminous Concrete Materials (Asphalt) to the only bidder, APAC-Carolina, Inc., Asheville, North Carolina for a total of $182,925.00.

D. Scheduling public hearing relative to rezoning property on Deaverview Road for March 5, 1991.

SUMMARY: The Asheville Planning and Zoning Commission on February 6, 1991, reviewed and recommended approval of rezoning Ward 6, Sheet 21, Lots 32 and 96 located at 482 Deaverview Road from R-3 Residential District to CG Commercial General District.

Upon motion of Councilman Bratton, seconded by Councilman Frank, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

A. Cancellation of public hearing relative to Lakeview Mobile Home Park (Resubmittal) scheduled for March 5, 1991.

SUMMARY: All property owners in the area of the Lakeview Mobile Home Park must be notified and this matter will be brought back to Council in the near future.

Vice-Mayor Moore moved to cancel the public hearing scheduled for March 5, 1991 relative to Lakeview Mobile Home Park (Resubmittal). This motion was seconded by Councilman Frank and carried unanimously.

B. **Council Members - Four Year Staggered Term**

Patsy Brison, Acting City Attorney, reviewed the following memorandum:

MEMORANDUM TO: Ken Michalove, Mayor, and Members of the Asheville City Council

FROM: Bill Slawter, City Attorney

DATE: February 18, 1991

SUBJECT: Four Year Staggered Terms

I have spoken with Bill Campbell and David Lawrence at the Institute of Government regarding the best procedure to make the change to four year staggered terms. In addition, I have reviewed the Charter provisions of several cities that had a similar change made as a part of a rewriting of their City Charter by the state legislature. Three alternatives were suggested:

1. Have the three persons receiving the highest number of votes in the 1991 election be elected to four year terms, with the next three highest vote-getters receiving two year terms. Thereafter, three members would be elected each two years to serve four year terms. This procedure was followed in all of the Charter provisions enacted by the state legislature.

2. Designate each of the six seats by number, and in 1991 have three of the seats elected for two year terms and three of the seats elected for four year terms. Thereafter, beginning in 1993, three members would be elected each two years, to serve four year terms.

3. Draw straws or numbers at the organizational meeting of the City Council in order to determine which three members are to serve four year terms beginning in 1991, and which three members are to serve two year terms beginning in 1991. Thereafter, the procedure would be the same as with the other alternatives.

With regard to the question mentioned in my February 8 memo regarding whether a council member serving a four year term must resign from his seat in order to run for the position of Mayor two years into his four year term, there is a controlling state law. N. C. Gen. Stat. sec. 163-125, adopted in 1989, would require that a

council member resign from his or her seat before running for Mayor midway through a four year term.

BS:msb

Councilman Ellison said district elections should be considered at the same time as staggered terms. He requested that the City Attorney address this issue.

A discussion was held whether or not to consider this change for the upcoming election in November, 1991.

C. **Unified Development Ordinance meeting**

Councilman Frank reminded members of Council of the Unified Development Ordinance Committee meeting on February 20, 1991.

D. **Claims - Catherine Scott (Water) - City of Asheville (City vehicle damaged) - City of Asheville (City vehicle damaged)**

The City Manager said claims were received from Catherine Scott and the City of Asheville.

Mayor Michalove said the claims have been referred to the appropriate insurers for investigation.

VII. ADJOURNMENT

Mayor Michalove adjourned the meeting at 5:00 PM.

H. M. Michalove
MAYOR

Helen S. Metcalf
CITY CLERK

Tuesday - February 26, 1991 - 4:00 p.m.

Regular Meeting

Present: Acting Mayor Norma T. Price, Presiding, Councilmen Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: Mayor Kenneth M. Michalove, Vice-Mayor William G. Moore and Councilman Mary Lloyd Frank

INVOCATION

The invocation was given by Councilman Ellison.

STUDENT REPRESENTATIVES

Mr. Charles Penny, Assistant City Manager, introduced Ms. Angie Efstation and Ms. Perri Sutton, both Juniors at Asheville High School, who where chosen to be the student representatives.

APPROVAL OF THE MINUTES

Acting Mayor Price announced the approval of the minutes of the February 12, 1991, City Council meeting as well as the approval of the minutes of the February 19, 1991, City Council meeting.

I. PROCLAMATIONS:

A. **RESOLUTION NO. 91-18 - RESOLUTION WELCOMING THE SOUTHERN BASKETBALL CONFERENCE.**

B. **RESOLUTION NO. 91-19 - RESOLUTION HONORING DAVE HART, COMMISSIONER OF THE SOUTHERN CONFERENCE.**

Acting Mayor Price read a resolution welcoming the Southern Basketball Conference which will be held on March 1 - 3, 1991, at the Asheville Civic Center. This will be the eighth year the Southern Basketball Conference has been held in Asheville.

Upon motion of Councilman Bratton, seconded by Councilman Ellison, Resolution No. 91-18 was unanimously adopted.

Acting Mayor Price recognized former Mayor W. Louis Bissette, Jr., who introduced members of the Asheville Sports Committee, Commissioner of the Southern

Conference Dave Hart and Commissioner-Elect of the Southern Conference Wright Waters. He also introduced Civic Center staff and other people who were actively involved in bringing the Southern Conference to Asheville again this year. On behalf of the Asheville Sports Committee and the Southern Conference, Mr. Bissette thanked the City Council for their support of the Conference.

Acting Mayor Price read a resolution honoring Dave Hart, Commissioner of the Southern Conference, who will be stepping down this year as Commissioner.

Upon motion of Councilman Bratton, seconded by Councilman Ellison, Resolution No. 91-19 was unanimously adopted.

Mr. Hart passed out hats to the members of Council and thanked them for all their support over the past years.

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C. **RECOGNITION OF EMPLOYEE OF THE YEAR, OFFICER GARY DAVIS OF THE ASHEVILLE POLICE DEPARTMENT.**

City Manager Bean recognized Officer Gary Davis of the Asheville Police Department as "Employee of the Year." Mr. Bean stated that the B*E*S*T Committee met on January 18, 1991, and chose Gary Davis as Employee of the Year for his going the extra mile in helping a blind, deaf mute find his relatives.

II. PUBLIC HEARINGS: NONE

III. OLD BUSINESS:

A. **ORDINANCE NO. 1894 - SECOND READING OF AN ORDINANCE REZONING PROPERTY LOCATED AT 23 AND 17 ELOISE STREET AND 136 MERRIMON AVENUE - Petitioners - Deal Buick.**

Acting Mayor Price said that the Asheville Planning and Zoning Commission on January 9, 1991, reviewed and recommended approval of rezoning Ward 2, Sheet 5, Lots 56, 57, and a portion of Lot 64 from R-3 Residential District to CH Commercial Highway District. She said this ordinance was read on first reading on February 19, 1991.

Ms. Margaret Wallace, representing Deal Buick, requested that this ordinance be voted on its second and third readings at this time.

City Attorney Slawter stated that there needed to be at least 5 members of Council present in order to suspend the rules and since only 4 members were present, the request could not be granted.

Acting Mayor Price said this ordinance was previously read on first reading and would not be read in its entirety unless there was a specific request to do so.

On a roll call vote of 4-0, Ordinance No. 1894 passed on second reading.

B. **ORDINANCE NO. 1896 - SECOND READING OF AN ORDINANCE RELATIVE TO AMENDING ORDINANCE NO. 1172, THE FLOOD PLAIN REGULATIONS OF THE CITY OF ASHEVILLE.**

Acting Mayor Price said that the Federal Emergency Management Agency and the State Emergency Management Agency are requiring certain amendments to the City's ordinance to bring it into compliance with federal and state guidelines. She stated that this ordinance was read on first reading on February 19, 1991.

Mr. Gerald Green, Senior Planner, answered questions from the members of Council.

Acting Mayor Price said this ordinance was previously read on first reading and would not be read in its entirety unless there was a specific request to do so.

On a roll call vote of 4-0, Ordinance No. 1896 passed on its second reading.

IV. **NEW BUSINESS:**

A. **ORDINANCE NO. 1897 - AN ORDINANCE AMENDING SECTIONS 28-82.3 AND 28-81.7 OF ARTICLE IV, SPEED REGULATIONS, OF CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE.**

Acting Mayor Price stated that this action will establish a 45 m.p.h. speed limit on U.S. 25 between Rock Hill Road and Royal Pines Drive. It will also establish a 25 m.p.h. speed limit between Ridgefield Road and the Blue Ridge Parkway, during designated school hours.

It was the consensus of Council to contact the North Carolina Department of Transportation and request that they put some type of flashing signal designating that there is a school zone ahead and the speed limit reduced during the designated school hours.

Acting Mayor Price said this ordinance was previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Ellison moved for the adoption of Ordinance No. 1897. This motion was seconded by Councilman Estes.

On a roll call vote of 4-0, Ordinance No. 1897 passed on its first reading.

B. **RESOLUTION NO. 91-20 - RESOLUTION STATING THE INTENT OF THE CITY OF ASHEVILLE TO CONSIDER THE ANNEXATION OF AN AREA KNOWN AS THE BREVARD ROAD AREA AND FIXING THE DATE OF A PUBLIC HEARING ON THE QUESTION OF ANNEXATION FOR APRIL 23, 1991.**

Patty Tallerday, Senior Planner, said that the North Carolina General Statutes provides that any municipal governing board desiring to annex territory under the provisions of N. C. Gen. Stat. sec. 160A-49 shall first pass a resolution stating the intent of the municipality to consider annexation.

Ms. Tallerday described the proposed boundaries by use of a map and stated that there were 196 housing units and 560 people in the area. She said that the area is mainly commercial.

Upon inquiry of Councilman Ellison, Ms. Tallerday stated that the Biltmore Square Mall was aware of the proposed annexation before it was built.

Councilman Estes felt that the City might be moving too quickly on annexing and he felt, along with others in the community, that the City should concentrate on fixing services (water and sewer lines) that they already have in the corporate limits before annexing more.

Upon inquiry of Councilman Ellison, Assistant City Manager Penny stated that the Hampton Inn's water problem is currently being worked on and will be helped with the annexation of this area.

Acting Mayor Price said this members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Bratton, seconded by Councilman Ellison, Resolution No. 91-20 was unanimously adopted.

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C. **RESOLUTION NO. 91-21 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR THE PURPOSE OF UTILIZING STATE HIGHWAY RIGHT-OF-WAY AT THE INTERSECTION OF BROADWAY AVENUE AND MERRIMON AVENUE FOR A PARKING FACILITY.**

D. **RESOLUTION NO. 91-22 - RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASHEVILLE TO EXECUTE AN AGREEMENT WITH DINNER FOR THE EARTH, INC., FOR THE PURPOSE OF CONSTRUCTING AND UTILIZING A PARKING LOT FACILITY UPON STATE HIGHWAY RIGHT-OF-WAY AT THE INTERSECTION OF BROADWAY AVENUE AND MERRIMON AVENUE.**

City Manager Bean stated that Dinner for the Earth, Inc., requested the N. C. Department of Transportation to allow usage of right-of-way at the intersection of Broadway Avenue and Merrimon Avenue for parking purposes. He said the N. C. Department of Transportation can allow only other governmental agencies to use right-of-way for parking purposes. Therefore, the City will enter into an agreement with the N. C. Department of Transportation for the purpose of utilizing the right-of-way and then enter into an agreement with Dinner for the Earth, Inc., to construct the parking lot in accordance with the agreement between the City and the N.C. Department of Transportation. He said that Dinner for the Earth, Inc., will be paying for all the improvements and the only cost the City might incur would be in the way of parking enforcement.

Mr. Carroll Hughes presented the plan to the members of Council.

Acting Mayor Price asked the City Manager to have staff review the parking area on Broadway Avenue which is directly across the street from Dinner for the Earth, Inc.

Acting Mayor Price said the resolution authorizing the Mayor to execute an agreement with the N. C. Department of Transportation was previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Estes, seconded by Councilman Ellison, Resolution No 91-21 was unanimously adopted.

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Acting Mayor Price said the resolution authorizing the Mayor to execute an agreement with Dinner for the Earth, Inc., was previously furnished to members of Council and it would not be read in its entirety.

Upon motion of Councilman Estes, seconded by Councilman Ellison, Resolution No. 91-22 was unanimously adopted.

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V. CONSENT: None

VI. OTHER BUSINESS:

A. RECYCLING PLASTIC

At the request of Acting Mayor Price, the Council members watched a tape furnished through Shell Oil relative to recycling plastic.

VII. ADJOURNMENT:

Acting Mayor Price adjourned the meeting at approximately 5:10 p.m.

W. M. Nicholson
MAYOR

William F. Walcott
CITY CLERK

Tuesday - March 5, 1991 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Ellison arriving at the meeting at 4:20 PM

INVOCATION

The invocation was given by Councilman Bratton.

APPROVAL OF MINUTES

Mayor Michalove said approval of the minutes of the February 26, 1991 meeting is being withheld until the March 19, 1991 meeting.

I. PROCLAMATIONS:

A. **Proclamation - "Women's History Month" - March, 1991.**

Mayor Michalove proclaimed the month of March, 1991 as "Women's History Month" at the request of Kathleen Balogh, Director of Community Services, with the YWCA.

B. **Proclamation - "Hi-Neighbor Volleyball Week" - March 12 - 17, 1991.**

Mayor Michalove proclaimed the week of March 12 - 17, 1991 as "Hi-Neighbor Volleyball Week" and presented the proclamation to Donny Luke with the Asheville Volleyball Club.

C. **Proclamation - "Red Cross Month" - March, 1991.**

Mayor Michalove proclaimed the month of March, 1991 as "Red Cross Month" and presented the proclamation to Susan Ward with the American Red Cross.

D. **Proclamation - "Employ the Older Worker Week" - March 10 - 16, 1991**

Mayor Michalove proclaimed the week of March 10 - 16, 1991 as "Employ The Older Worker Week" at the request of James A. McMahan, Manager of Employment Security Commission of North Carolina.

II. PUBLIC HEARINGS:

A. Public hearing relative to Ingles Market on corner of Haywood Road and S. Louisiana Avenue.

Mayor Michalove opened the public hearing at 4:08 PM

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Don Sherrill, Urban Planner, said Mr. Gordon S. Myers, agent for Ingles Markets, Inc. is requesting approval to construct a 32,000 square foot grocery store at the intersection of Haywood Road and Louisiana Avenue. The plan submitted meets the requirements of the City's development standards. Water, sewer and fire protection services are available. Access will be from Haywood Road and Louisiana Avenue. A 12 foot landscaping buffer with an eight (8) foot fence and additional evergreen plantings will be used to screen the project from adjacent residentially zoned properties.

He said upon reviewing the site plan and hearing the comments of planning staff, the developer and the public, the Planning and Zoning Commission voted to recommend approval of the request with one (1) contingency:

1. NCDOT and City approval of driveway entrances

Mayor Michalove closed the public hearing at 4:15 PM

Councilman Price moved for the approval of the group development plan for the Ingles Market at the corner of Haywood Road and S. Louisiana Avenue subject to the contingency outlined by the Planning and Zoning Commission. This motion was seconded by Vice-Mayor Moore and carried unanimously.

B. Public hearing relative to rezoning property on Deaverview Road.

Ordinance No. 1898 - An ordinance amending zoning of property located at 482 Deaverview Road (Petition of Robert M. Ward)

Mayor Michalove opened the public hearing at 4:16 PM

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

The City Attorney said two petitions were received regarding this rezoning request - one in favor of the rezoning with approximately 140 names and one in opposition to the rezoning. He said after investigating the protest petition it was determined that none of the individuals signing the protest petition owned property adjacent to the property requested to be rezoned; therefore, it is not a valid protest petition.

Carol Alberice, Urban Planner II, said two individual tax lots are the subject of a rezoning request from R-3 to Commercial General. Lot 96 is within the Asheville City limits and Lot 32 lies outside the City limits but within the City's one mile extraterritorial jurisdiction. On Lot 96 sits a nonconforming grandfathered Commercial use (grocer/convenience store). Petitioner is requesting that the lots be zoned to allow the grocer to continue as conforming use. Development across the street in the County is commercial general in nature (ice service store, laundry). Staff and Planning Commission are supportive of this intersection becoming a commercial general area.

Councilman Ellison arrived at the meeting at 4:20 p.m.

Ms. Alberice said 140 individuals expressed support of the rezoning and 13 individuals expressed opposition.

Several Council members expressed concern that this rezoning is not in keeping with the 2010 Comprehensive Plan and questioned whether changes should be made before the Unified Development Ordinance is reviewed and adopted.

Councilman Price noted that this particular area is currently used for commercial establishments.

Councilman Estes said the commercial use in this area is a very needed use for the neighborhood.

Bobby Ward, petitioner, said he has a lease/option on the property. He said the grocer/convenience store has been in the same area for a number of years and is needed for the elderly in the area. He said the current structure is an eyesore and he plans on building a new building without changing the character of the neighborhood.

Freddie Tallent, 54 Pisgah Road, spoke in support of the rezoning.

Mayor Michalove closed the public hearing at 4:47 PM

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Price moved for the adoption of Ordinance No. 1898. This motion was seconded by Councilman Frank.

On a roll call vote of 7-0, Ordinance No. 1898 passed on first reading.

C. **Public hearing relative to Haw Creek Mews Apartments.**

Mayor Michalove opened the public hearing at 4:50 PM

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Mayor Michalove outlined the process to be used for the public hearing. He said Council would hear a report from the Planning Department then the Developer. He said comments would then be taken from the public - giving the main spokesman five minutes and others who wish to address Council three minutes. He asked that statements not be repeated.

Don Sherrill, Urban Planner, said Ben and Britt Simon, with Sicash Builders of Virginia Beach, Virginia, are requesting approval to construct a 294 unit apartment complex. The proposed site is an 18.38 acre parcel off Beverly Road and Haw Creek Road. The primary access will be from Beverly Road. The proposed density is 16 units per acre, the maximum allowed within the R-3 Medium Density Residential Zoning District. A 20 foot wide landscape buffer is proposed along all property lines, except along the street frontage.

Mr. Sherrill said water, sewer and fire protection services are available. He said parking required would be 588 spaces and the parking proposed is 600 spaces with 12 handicapped spaces required. He said a letter has been received from NCDOT giving preliminary approval of access into Haw Creek Road.

Mr. Sherrill said upon reviewing the site plan and hearing comments from the planning staff, the developer's attorney and the public, the Planning and Zoning Commission voted to recommend approval of the project with three (3) contingencies.

1. Submit and receive approval of engineered drawings from appropriate City staff, the Metropolitan Sewerage District (MSD), and the North

Carolina Department of Transportation (NCDOT) prior to issuance of any required permits. The final approved plans shall meet all City, State and Federal regulations.

2. The developer shall meet and adhere to the conditions set forth in Michael Brookshire's January 22, 1991 letter regarding the construction and land disturbance activity within the easement for the thirty-six (36) inch waterline that crosses the property.

3. No three (3) story buildings shall be constructed adjacent to any property line.

Mr. Sherrill said the conditions outlined in Michael Brookshire's letter are: 1) Preparation, by a registered professional engineer, of a report on the impact of the proposed construction activity to the existing 36 inch waterline. Said report to be specific and must include but not limited, to the following: (a) accurate existing and finish grade profile over waterline (b) load bearing capacity of waterline (c) recommended minimum and maximum cover over waterline (d) analysis of load on waterline due to construction activity (e) recommended protection measures; 2) a representative of the firm that prepares the engineering report must be on-site anytime construction activity is occurring within the 36-inch waterline easement; 3) utility contractor will be required to post a $50,000 performance bond payable to the City of Asheville.

He said at the request of the neighbors of Haw Creek, the Public Works Department conducted traffic counts and has determined that the road capacity of Beverly Road is 8,000 cars per day and that the projected flow of traffic after the project is built is about 4,800 cars per day.

He said since the project is proposed for construction in the floodway/floodplain areas and according to the plans the project meets all requirements for construction in these areas.

He said the 2010 Comprehensive Plan provides for this property to be residential.

Mr. Sherrill answered general questions from members of Council relative to water and sewer lines in the area.

At the request of the Mayor, the City Attorney said guidelines for approval of group development projects

are specific in the Zoning Ordinance. He said Council can not impose new standards or change density requirements on a project under consideration. He said basically, if the project meets all requirements Council must approve the project.

Louis Bissette, Attorney for the petitioner, said Marvin Simon, Developer, is a native of Asheville and has spent his life developing a reputation as one of the most reputable developers in the Southeast. He said he was a little upset with the tone this project has taken on in the last several weeks. He said it was a little frightening to watch a few of the opponents of this project launch a campaign of misinformation and character assassination. He said the use of land should be regulated by laws and not emotions.

Mr. Bissette said the developer would be investing 12 million dollars in Asheville which would be added to the tax base. He said the infrastructure fees would be about $200,000, $175,000 going to MSD for the tap on fee.

He said the project has received approval from all city departments and all agencies, including the Floodway Plan Agency with the TVA. He said the developer has invested time, efforts, and money into this project and has made every effort to work with the neighborhood residents.

He said the entrance on Beverly Road is only 2/10 mile from Tunnel Road, therefore, there will not be a lot of traffic into Haw Creek.

He said Asheville has not have multi-unit apartments in two years or more and there is a need for the apartments.

He respectfully requested that Council uphold the laws and the economy of the City of Asheville. He said as a gesture of good will the developers are willing to reduce the number of units to 260 units, although they are not legally required to do so.

Mr. Bissette said the residents expressed concerns over the overcrowding of the schools. He said that issue is irrelevant as far as this project is concerned since the Buncombe County School Board is required to provide an education for all residents. He said the Buncombe County School Board has new long range plans to expand the schools in this area.

Councilman Price said she would like to protect the buffer around the single family dwellings.

Larry New, with Vaughn and Melton Engineers, said the water run off has to be reviewed by the Erosion Control staff and must meet all requirements of the Erosion Control Ordinance. He said the Erosion Control Ordinance will protect the residents in the area.

Councilman Ellison asked if the developer would reduce the units to 244 units.

At the request of Mr. Bissette, Mayor Michalove called for a 15 minute recess at 6:05 PM

Council reconvened at 6:15 PM

Mr. Bissette said his clients are willing to reduce the number of units to 250 units provided they did not have to go back through the group development process - or go through another public hearing - by amending the site plan.

The City Attorney said the Planning Director could be given guidelines to follow in approving the final site plan with the reduced density. He said the guidelines could be as follows:

1) That no additional buildings be placed in the flood hazard area.

2) That no building or parking area be located closer to the property lines than as submitted to the City Council on March 5, 1991.

3) That the entrance locations not be relocated; provided, however, this condition shall not prohibit the developer from eliminating the new Haw Creek Road entrance.

4) That the buffer areas and the easement for the 36 inch water line be preserved without any encroachment.

5) That the developer work with a committee during the construction of the project, with the committee to be composed of 5 members to include 1 representative from the developer, 1 representative from the City Planning Staff and 3 representatives from the Haw Creek Homeowners' Association.

At the request of Councilman Ellison, Mr. Bissette said the developer would consider removing the buildings and entrance on New Haw Creek Road but would not commit to doing so at this time.

Barbara Melton, 15 Melton Drive, Board of Directors of the Haw Creek Homeowners' Association, said the main objection the residents have with the project and the zoning in the area is that the density level is too high. She also spoke relative to the overcrowding of the schools. She said a particular city staff should be responsible for the storm water runoff. She also asked that all ordinances be strictly enforced. She said Council should address the residential area in Haw Creek and rezone the property in order not to allow such high density requirements.

Ms. Melton said she would be in favor of forming a committee with the homeowners', the developer, and the city staff during construction of this project.

Wayne Hinson, 17 Pine Spring Drive, spoke in opposition to the project. He addressed the creditability of the developer. He said it was his understanding that the original buffering requirement would be 30' and now it is 20'. He said he would like to see the buffering be at 30'.

Paul Miller, 8 Pine Spring Drive, asked what guarantees the residents have that the City staff will follow the guidelines outlined by Council. Mayor Michalove responded that the motion for approval would be specifically written.

Mike Braun, 12 Munn Drive, asked Council to look at changing the density requirements in Haw Creek to the R-2 density requirements.

Pat Thompson, 21 Dogwood Grove, said she is still concerned about the exit onto New Haw Creek Road. She also asked that Council do something about the zoning in Haw Creek in order to reduce the density requirements.

C. A. Noblett, 15 McIntosh Road, spoke in opposition to the project. He said everything the developers had told the residents in the area was not true.

Mrs. C. A. Noblett, 15 McIntosh Road, spoke in opposition to the project. She said Haw Creek has had a flood problem for fourteen years. She also spoke relative to the inaccuracies in the Environmental Impact Statement.

Tom Gardner, 46 Macon Avenue, spoke in favor of the proposed project.

Bob Jolly, resident of Haw Creek, spoke in opposition to the project.

Robert K. Miller, Pine Spring Drive, spoke in opposition stating that the apartment project would ruin a quiet neighborhood.

Bruce Goforth, 1 Cedaridge Drive, from the Buncombe County Board of Education, said Haw Creek School is currently beyond capacity and Council needs to address this situation.

Roy Blizzard, employee of the Buncombe County Board of Education, also spoke relative to the overcrowded schools. He said the long range plans for expansion are only preliminary and there are presently no funds available for the expansion. He said a resolution would be proposed to the Buncombe County Board of Education on Thursday night requesting that the Asheville City Council consider the capacity of schools when considering group developments.

Nancy Hyatt, 37 McIntosh Road, also spoke relative to the density requirements in the area being too high.

Pat Skaskowi, with the Kenilworth Residents Association, questioned the need for the apartments in this area. She requested that Council not approve the project.

Debra Braun, 12 Munn Drive, said she has a problem with the zoning the community.

Mr. Bissette said he agreed that some zoning changes were needed in the City, but Council needs to set the rules and go by them so developers will know the rules and laws.

Mayor Michalove closed the public hearing at 7:27 p.m.

Vice-Mayor Moore moved that the site plan be approved subject to the following conditions:

1. Subject to the three contingencies listed by the Planning and Zoning Commission.

2. Subject to a reduction in the number of rental units from 294 to 250, with the final site plan approval for the group development with the reduced density to be made by the Planning Director, subject to the following:

a) That no additional buildings be placed in the flood hazard area.

b) That no building or parking area be located closer to the property lines than as submitted to the City Council on March 5, 1991.

c) That the entrance locations not be relocated; provided, however, this condition shall not prohibit the developer from eliminating the new Haw Creek Road entrance.

d) That the buffer areas and the easement for the 36 inch water line be preserved without any encroachment.

e) That the developer work with a committee during the construction of the project, with the committee to be composed of 5 members to include 1 representative from the developer, 1 representative from the City Planning Staff and 3 representatives from the Haw Creek Homeowners' Association.

This motion was seconded by Councilman Bratton and carried unanimously.

Ben Simon thanked members of Council for their efforts and said he looked forward to working with the City and the neighborhood on this project.

III. OLD BUSINESS:

A. **Ordinance No. 1894 - Third reading of an ordinance rezoning property located at 23 and 17 Eloise Street and 136 Merrimon Avenue - Petitioners - Deal Buick.**

Mayor Michalove said the Asheville Planning and Zoning Commission on January 9, 1991, reviewed and recommended approval of rezoning Ward 2, Sheet 5, Lots 56, 57, and a portion of 64 from R-3 Residential District to CH Commercial Highway District. This ordinance was read on first reading on February 19, 1991 and on second reading on February 26, 1991.

Mayor Michalove said the ordinance was previously read on first and second readings and would not be reread in its entirety.

On a roll call vote of 7-0, Ordinance No. 1894 passed on third and final reading.

Ordinance Book No. 12 - Page 316

B. **Ordinance No. 1896 - Third reading of an ordinance relative to amending Ordinance No. 1172, the Flood Plain Regulations of the City of Asheville.**

Mayor Michalove said the Federal Emergency Management Agency and the State Emergency Management Agency are requiring certain amendments to the City's ordinance to bring it into compliance with federal and state guidelines. This ordinance was read on first reading on February 19, 1991 and on second reading on February 26, 1991.

Mayor Michalove said the ordinance was previously read on first and second readings and would not be reread in its entirety.

On a roll call vote of 7-0, Ordinance No. 1896 passed on third and final reading.

Ordinance Book No. 12 - Page 331

C. **Ordinance No. 1897 - Second reading of an ordinance amending Article IV, Speed Regulations, of Chapter 28 of the Code of Ordinances establishing speed limit changes on Hendersonville Road (US 25).**

Mayor Michalove said this action will establish a 45 mph speed limit on US 25, between Rock Hill Road and Royal Pines Drive, and a 25 mph speed limit, between Ridgefield Road and the Blue Ridge Parkway, during designated school hours.

Mayor Michalove said the ordinance was previously read on first reading and would not be reread in its entirety.

On a roll call vote of 7-0, Ordinance No. 1897 passed on second reading.

Councilman Ellison moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1896. This motion was seconded by Councilman Bratton and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1897 passed on third and final reading.

Ordinance Book No. 12 - Page 332 - 333

IV. NEW BUSINESS:

A. **Resolution No. 91-23 - Resolution approving the report for the extension of major municipal services into an area known as Haw Creek II.**

Mayor Michalove said the N. C. Gen. Stat. sec. 160A-49 requires the City to approve the report extending City services to the proposed annexation area at least thirty (30) days prior to the public hearing. The public hearing is scheduled for April 9, 1991.

Patty Tallerday, Senior Planner, presented and highlighted the plans for the extension of municipal services into the Haw Creek II area. By the use of a map, she outlined the boundaries proposed to the annexed.

Mayor Michalove requested that Ms. Tallerday arrange a meeting with the Haw Creek Homeowners' Association to present the annexation plans prior to the public hearing on April 9, 1991.

Mayor Michalove said copies of the resolution had previously been distributed to members of Council, and the resolution would not be read in its entirety.

Upon motion of Vice-Mayor Moore, seconded by Councilman Price, Resolution No. 91-23 was unanimously adopted.

Resolution Book No. 18, Page 345

B. **Resolution No. 91-24 - Resolution authorizing the City Manager to execute on behalf of the City of Asheville an engineering services agreement and any amendments thereto with Thompson-Gordon-Shook Engineers for engineering services for the Streets and Sidewalks Improvements Program.**

The City Manager said this engineering contract in the amount of $339,781 will provide for the construction specifications and drawings to rehabilitate various streets within the City of Asheville. In 1985 the citizens of Asheville passed a Bond Referendum which provided funding for Street and Sidewalk Rehabilitation Program.

Mayor Michalove said copies of the resolution had previously been distributed to members of Council, and the resolution would not be read in its entirety.

Upon motion of Vice-Mayor Moore, seconded by Councilman Price, Resolution No. 91-24 was unanimously adopted.

Resolution Book No. 18, Page 346

C. **Resolution No. 91-25 - Resolution authorizing the City Manager to execute on behalf of the City of Asheville an engineering services agreement and any amendments thereto with McGill and Associates for engineering services for the Streets and Sidewalks Improvement Program.**

The City Manager said this engineering contract in the amount of $246,540 will provide for the construction specifications and drawings to rehabilitate various streets within the City of Asheville. In 1985 the citizens of Asheville passed a Bond Referendum which provided funding for Street and Sidewalk Rehabilitation Program.

Mayor Michalove said copies of the resolution had previously been distributed to members of Council, and the resolution would not be read in its entirety.

Upon motion of Vice-Mayor Moore, seconded by Councilman Price, Resolution No. 91-25 was unanimously adopted.

Resolution Book No. 18, Page 347

D. **Resolution No. 91-26 - Resolution authorizing the City Manager to execute on behalf of the City of Asheville an engineering services agreement and any amendments thereto with Vaughn and Melton Engineers-Architects for engineering services for the Streets and Sidewalks Improvements Program.**

The City Manager said this engineering contract in the amount of $376,080 will provide for the construction specifications and drawings to rehabilitate various streets within the City of Asheville. In 1985 the citizens of Asheville passed a Bond Referendum which provided funding for Street and Sidewalk Rehabilitation Program.

Mayor Michalove said copies of the resolution had previously been distributed to members of Council, and the resolution would not be read in its entirety.

Upon motion of Vice-Mayor Moore, seconded by Councilman Price, Resolution No. 91-26 was unanimously adopted.

Resolution Book No. 18, Page 348

E. **Ordinance No. 1899 - Ordinance amending Chapter 17A (Massage Parlors and Health Studios) of the Code of Ordinances of the City of Asheville.**

The City Manager said Section 17A-16 of the Code of Ordinances of the City of Asheville requires any person

seeking to engage in the trade or profession of masseur or masseuse in the City of Asheville to first submit a $1,000 bond payable to the City before a license to engage in such profession is issued. This ordinance amendment would allow any person desiring to engage in the trade or profession. He said the massage therapists in Asheville have requested other amendments to the ordinance and these changes are currently being studied by the city staff and will be brought before Council at a later date.

Mayor Michalove said the ordinance was previously presented to members of Council and it will not be read in its entirety.

On a roll call vote of 7-0, Ordinance No. 1899 passed on first reading.

Councilman Ellison moved to suspend the rules and proceed to the second reading of Ordinance No. 1899. This motion was seconded by Vice-Mayor Moore and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1899 passed on second reading.

Councilman Ellison moved to suspend the rules and proceed to the third reading of Ordinance No. 1899. This motion was seconded by Vice-Mayor Moore and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1899 passed on third and final reading.

Ordinance Book No. 12 - Page 335

F. **Ordinance No. 1900 - Budget ordinance amendment appropriating funds for the Sister City Program**

The City Manager said on July 24, 1990, the Asheville City Council voted to assume financial responsibility for the three governmental delegates from Vladikavkaz, USSR. As a part of the official pairing of Asheville and Vladikavkaz, these Ossetian visitors will be in Asheville to sign the Sister City declaration and meet with City officials.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it will not be read in its entirety.

On a roll call vote of 7-0, Ordinance No. 1900 passed on first and final reading.

Ordinance Book No. 12 - Page 336

G. **Ordinance No. 1901 - Budget amendment to appropriate funds for South Pack Square Redevelopment - Phase I.**

The City Manager said this budget amendment will provide funds for the development of a master plan (Redevelopment Plan) for the South Pack Square area. The plan will be developed by the YMI Cultural Center in cooperation with the South Pack Square Improvement Association and the City of Asheville.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it will not be read in its entirety.

On a roll call vote of 7-0, Ordinance No. 1901 passed on first and final reading.

Ordinance Book No. 12 - Page 337

H. **Report relative to Adopt-A-Street Program**

Jim Ewing, Director of Public Works said the Public Works Department has been working with Quality Forward to come up with regulations for "Adopt-A-Street" Program. He said members of Council were furnished the proposal to set up the Adopt-A-Street Program and the guidelines to follow during the program.

Council requested information on the number of signs that would be required, the impact they would have on the sign ordinance and the cost involved.

Janie Wilson, with Quality Forward, endorsed the program and invited members of Council to a Kick-Off Clean Up on April 3 from 10 am to 1 pm.

After discussion, Vice-Mayor Moore moved to endorse the concept of the Adopt-A-Street Program. This motion was seconded by Councilman Bratton and carried unanimously.

V. CONSENT:

A. **Resolution No. 91-27 - Resolution authorizing the City Manager of the City of Asheville to make application for a North Carolina Humanities Council grant for the research portion of an Urban Trail Project.**

SUMMARY: The grant is submitted for the purpose of researching Asheville History in order to decide which information to put on the trail; to document information; to produce oral history project for community involvement.

Resolution Book No. 18 - Page 349

B. **Resolution No. 91-28 - Resolution authorizing the City Manager of the City of Asheville to make application for and enter into an agreement with the National Park Service for land and Water Conservation Funds for the development of a River Park on the French Broad River.**

SUMMARY: The City of Asheville has long been interested in the possibility of a park on the French Broad River. This was supported by a number of studies, including the 2010 Plan. The most feasible location for a park area along the French Broad River appears to be property which presently belongs to Carolina Power and Light Company on the west bank of the river. After a number of meetings with CP&L personnel over several years, CP&L has now agreed to donate a portion of their property for park purposes. This application would request up to $75,000 from the Land and Water Conservation Fund for the purposes of developing a portion of the CP&L property as a public park.

Resolution Book No. 18 - Page 350-351

C. **Resolution No. 91-29 - Resolution authorizing the City Manager of the City of Asheville to make application for and enter into an agreement with the Land of the Sky Regional Council for Senior Citizen Grant Funds.**

SUMMARY: The N. C. Department of Human Resources, Division of Aging, has a program whereby grants are available through the Land of Sky Regional Council for providing resources for outreach services for senior citizen centers and for senior center rehabilitation. The City of Asheville has determined that these funds would enhance the senior citizen programs for the citizens of Asheville as well as improve existing facilities now offered for senior citizens. The amount available through this grant is $15,000 for outreach services and $10,000 for rehabilitation . This resolution would authorize the City Manager to make application for these funds and enter into an agreement with the Land of Sky Regional Council for the administration of this project.

Resolution Book No. 18 - Page 352

D. **Resolution No. 91-30 - Resolution authorizing submission of an amended Statement of Community Development Objectives and Projected Use of Funds.**

SUMMARY: The resolution will authorize submission of an amended Statement of Objectives to HUD for the allocation of contingency funds in the amount of $25,000 for the South Pack Square Redevelopment - Phase I project.

Resolution Book No. 18 - Page 353-354

E. **Resolution No. 91-31 - Resolution changing the name of the Minority Business Committee to the Minority Business Commission.**

SUMMARY: The Minority Business Committee was established by City Council with adoption of Resolution No. 90-97 on July 17, 1990. The Committee feels the original recommendation of the Task Force which developed the Minority Business Committee should be followed and the name be changed to Minority Business Commission to more accurately reflect its responsibilities.

Resolution Book No. 18 - Page 355

F. **Resolution No. 91-32 - Resolution of intent to close an unnamed alley off Oaklawn Avenue and calling a public hearing on the question for April 9, 1991.**

SUMMARY: A petition to close an unnamed alley off Oaklawn Avenue has been received from Grace Episcopal Church. The unnamed alley is adjoined by property in the ownership of Grace Episcopal Church and no other property owners are involved. Utility companies have been contacted to provide utility easement needs.

Resolution Book No. 18 - Page 356-357

G. **Resolution No. 91-33 - Resolution of intent to close Dixon Alley between Velvet and Beaumont Street and an unnamed alleyway running north of Beaumont Street and calling a public hearing on the question for April 9, 1991.**

SUMMARY: A petition has been received from the Asheville Housing Authority to close Dixon Alley between Beaumont Street and Velvet Street and an unnamed alley off Beaumont Street. The petitioned streets are in the area of the new proposed Public Works Complex and are not currently open for use.

Upon motion of Vice-Mayor Moore, seconded by Councilman Frank, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

A. ABC Permits

The City Manager presented the following ABC Permits

1. Big Apple Restaurant - 293 Swannanoa River Road (On Premise/Beer Beverage Permit)

A. Inspections Division - Building, Electrical and Plumbing Code Violations as follows:

Electrical

(1) Correctly wire open splice on side of building at outside entrance to stockroom; (2) Correctly fuse all disconnects and panel boards; (3) Re-clamp flood lights on right side of building; (4) Correctly wire overhead fixture in stockroom; (5) Install outlet plate on freezer outlet in stockroom; (6) Correctly wire upper lefthand disconnect; (7) Correctly strap EMT to dining AC unit; (8) Correctly wire right freezer in stockroom; (9) Correctly wire open wiring on right side of stockroom; and (10) Correctly wire outside sign.

Building - No cooking to be done creating grease laden vapors (frying, broiling, or grilling) until hood system meets requirements of fire prevention and heating code of N. C.

Plumbing - Plumbing does not meet current code; however, structure is preexistent and nonconforming.

Councilman Bratton moved to disapprove the ABC Permit for Big Apple Restaurant until all code violations are corrected. This motion was seconded by Councilman Ellison and carried unanimously.

2. Cizzles - 116 Sweeten Creek Road (On Premise/Beer & Wine Permit)

A. Inspections Division - Building and Electrical Code Violations as follows:

Electrical:

(1) Correctly wire outside portable sign; (2) Correctly wire exhaust fan at rear of building; (3) Remove all extension cord wiring; (4) Correctly wire light at upstairs entrance; (5) Install outlet plate at end booth in dance room; (6) Correctly

ground outlet on pier in front of band stage; (7) Correctly ground outlet on wall at end of pool table; and (8) Replace broken outlet at juke box.

Building - Correctly install exit signs above doors.

B. Fire Department - Fire Code Violations as follows:

(1) Exit lights - side door out; (2) remove two lock hasps from side exit door; and (3) Provide emergency lighting for rear section.

C. Police Department - Applicant Angela Baker has one speeding violation; Applicant Roger Ward has two violations - speeding and driving while intoxicated. No complaints reports have been filed for this location during the past year.

Councilman Bratton moved to disapprove the ABC Permit for Cizzles until all code violations are corrected. This motion was seconded by Councilman Ellison and carried unanimously.

3. **Old Haywood Lounge - 1655 Old Haywood Road (On Premise/Beer & Wine Permit)**

A. Inspections Division - Electrical violations (1) Correct or remove neon beer sign; (2) Rewire or remove fluorescent fixture over grill; and (3) Replace missing outlet covers.

B. Police Department - Applicant has had several traffic violations, along with 2 breaking and entering vehicle; 2 larceny; 1 assault; and 1 assault on a female. A review of records for the past year indicates 11 complaints have been filed for this location - 1 forgery, 2 vandalisms, 1 larceny, 6 burglaries, and 1 arson.

Councilman Bratton moved to disapprove the ABC Permit for Old Haywood Lounge until all code violations are corrected. This motion was seconded by Councilman Ellison and carried unanimously.

Claims - Ellen Schofield (Fire) - Linda Robinson (Water) - Marjorie Borderick (Streets) - Stephanie Cooper (Streets) Pat Blair (Park Service) Glenn Conner (Police) - James Jenkins (Streets) _ City of Asheville (Traffic Engineering Radio Missing) - Calvin Allen (Inspections) - Nicholas Giliberti (Water)

The City Manager said claims were received from Ellen Schofield, Linda Robinson, Marjorie Borderick, Stephanie Cooper, Pat Blair, Glenn Conner, James Jenkins, City of Asheville, Calvin Allen, Nicholas Giliberti.

Mayor Michalove referred the claims to the City Attorney for investigation and recommendation.

Chris Johansen - Comments relative to City Seal Wood Carving

Chris Johansen commented on the City Seal wood carving placed in the Council Chambers.

VII. ADJOURNMENT

Mayor Michalove adjourned the meeting at 8:20 PM

H. M. Michalove
MAYOR

William F. Malcolm
CITY CLERK

Regular Meeting - March 12, 1991

NO MEETING

NATIONAL LEAGUE OF CITIES MEETING

H. M. Nicholson
MAYOR

William F. Wolcott
CITY CLERK

Tuesday - March 19, 1991 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Eugene Ellison

INVOCATION

The invocation was given by Councilman Estes.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the minutes of the February 26, 1991 and the March 5, 1991 meetings as submitted.

I. PROCLAMATIONS:

A. Proclamation - "Community Development Week" - April 1 - 7, 1991

Mayor Michalove proclaimed the week of April 1 - 7, 1991 as "Community Development Week" and presented a copy of the proclamation to Marvin Vierra, Community Development Director.

Marvin Vierra highlighted the events taking place during "Community Development Week".

B. Proclamation - "Military Appreciation Day" - Saturday, April 6, 1991

Mayor Michalove proclaimed Saturday, April 6, 1991 as "Military Appreciation Day" and presented a copy of the proclamation to Sgt. Glenn Royster, U S. Army Recruiter for the Asheville Area.

Sgt. Glenn Royster highlighted the events taking place during "Military Appreciation Day".

C. Proclamation - "Days of Remembrance of the Victims of the Holocaust" - April 7 - 14, 1991

Mayor Michalove proclaimed the week of April 7 - 14, 1991 as "Days of Remembrance of the Victims of the Holocaust". He said he would be presenting the proclamation later this month at a special ceremony.

D. Proclamation - "Agriculture Day" - Thursday, March 21, 1991

Mayor Michalove proclaimed Thursday, March 21, 1991 as "Agriculture Day".

E. Proclamation - "Vegetarian Education Day" - Wednesday, March 20, 1991

Mayor Michalove proclaimed Wednesday, March 20, 1991 as "Vegetarian Education Day." He said the proclamation was requested by Cecil Bothwell, Southern Appalachian Vegetarian Edacity Society.

F. E M T - Demonstration - Automated Defibrillation
John Rukavina, Fire Chief, said last year, the City Council approved funds for the purchase of three "automated defibrillator" units. Since that time, the Fire Department has been pursing state approval to offer this service through Memorial Mission Hospital medical command and control and providing the necessary on-duty training for the firefighters who will operate the equipment. He said counting the automated defibrillator already located at Station 21 (Skyland), four of the nine fire stations in Asheville have defibrillators. The Fire Department's goal is to have one automated defibrillator in each fire station.

Chief Rukavina presented a short video on the "RapidZap" defibrillation equipment.

Tim Hinson, with the Asheville Fire Department, spoke to members of Council relative to the automated defibrillation. Several members of the Asheville Fire Department and Buncombe County Emergency Medical Team presented a demonstration of defibrillation.

II. PUBLIC HEARINGS:

A. Public hearing relative to closing Post Street between North French Broad Avenue and Otis Street.

Mayor Michalove opened the public hearing at 4:30 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Jim Ewing, Director of Public Works, said a petition to close Post Street between North French Broad Avenue and Otis Street has been received from the United States of America General Services Administration. GSA is the owner of all property adjoining the street petitioned to be closed with the exception of one lot which they are in the process of purchasing but which has not been consummated at this point in time. The closing of Post Street will allow for the construction of the new Federal Building Project. All public utility companies have been requested to provide information for utility easements which may need to be retained.

The City Manager reviewed the preliminary site plan for the new federal office building in downtown. He said the preliminary site plan includes the closing of Post Street and an unnamed alley.

Gary Rowe, Attorney, speaking on behalf of himself and others, said they are in the Pioneer Associates building across from Post Street. He said they are not opposed to GSA coming into downtown but they are concerned about the closing of Post Street. He said this closing is detrimental to the public interest. He said this closing would eliminate 20 parking spaces and access to parking lots in the area and this street is a direct line of access into downtown. He said he felt this would also increase traffic congestion in the area.

Mr. Rowe said the N. C. General Statutes require that a street proposed to be closed be posted prior to the public hearing for the closing. He said the property owners in the area could not find where Post Street had been posted.

It was noted that an affidavit of posting by the Public Works Department is in the City Clerk's file.

After discussion, Vice-Mayor Moore moved to continue the public hearing relative to the closing of Post Street until April 9, 1991 without further advertisement. This motion was seconded by Councilman Frank and carried unanimously.

B. Public hearing relative to closing an unnamed alley between Otis Street and Patton Avenue.

Mayor Michalove opened the public hearing at 4:55 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.
Mr. Jim Ewing, Director of Public Works, said a petition

to close an unnamed alley between Otis Street and Patton Avenue has been received from the United States of America General Services Administration. GSA is the owner of all property adjoining the unnamed alley petitioned to be closed with the exception of one lot which they are in the process of purchasing but which has not been consummated at this point in time. The closing of the unnamed alley will allow for the construction of the new Federal Building Project. All public utility companies have been requested to provide information for utility easements which may need to be retained.

Alan Cartledge, with the U. S. Forest Service, said on January 21, 1986 the City of Asheville granted the USDA-Forest Service an easement agreement to allow a portion of the right-of-way of the Wall Street Extension for the purpose of Forest Service outside landscaping and sign placement. This area of approximately .03 acres lies along the west side of Otis Street and borders the U. S. Courthouse property.

Mr. Cartledge said since construction funding for a new Federal Building has not received congressional approval and may be years before construction, we are requesting that the original agreement granted to the U. S. Forest Service be continued until such time the construction contract for a new building is awarded. This will permit the Forest Service to retail their identity for public service.

The City Attorney said he would have to research this request before advising Council on the proper procedure to take in order to grant the request.

Councilman Frank moved to continue the public hearing relative to the closing of the unnamed alley between Otis Street and Patton Avenue until April 9, 1991 without further advertisement. This motion was seconded by Councilman Frank and carried unanimously.

III. OLD BUSINESS:

A. Ordinance No. 1898 - Second reading of an ordinance rezoning property located at 482 Deaverview Road (Petition of Robert M. Ward)

Mayor Michalove said the Asheville Planning and Zoning Commission on February 6, 1991, reviewed and recommended approval of rezoning Ward 6, Sheet 21, Lots 32 and 96 located at 482 Deaverview Road from R-3 Residential District to CG Commercial General District. This ordinance was read on first reading on March 5, 1991.

Mr. Robert Ward requested that Council read the ordinance on second and third readings at today's meeting.

Councilman Price left the meeting at 4:59 p.m. unexcused. Therefore, votes for Councilman Price will be counted as "aye" votes.

On a roll call vote of 6-0, Ordinance No. 1898 passed on second reading.

Vice-Mayor Moore moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1898. This motion was seconded by Councilman Estes and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1898 passed on third and final reading.

Ordinance Book No. 12 - Page 334

IV. NEW BUSINESS:

A. Resolution No. 91-36 - Resolution authorizing the City Manager to sign on behalf of the City of Asheville an amendment to the Fire protection contract with Skyland Volunteer Fire Department, Inc.

The City Manager said State law requires either a contract or assumption of a proportional share of debt between Asheville and Skyland as a result of annexation of Woods Edge Apartments. Skyland proposes amendment of the present contract.

Upon motion of Vice-Mayor Moore, seconded by Councilman Frank, Resolution No. 91-36 was unanimously adopted.

Resolution Book No. 18 - Page 362

B. Resolution No. 91-34 - Resolution approving the report for the extension of major municipal services into an area known as the Brevard Road area.

Patty Tallerday, from the Planning Department, said N. C. Gen. Stat. sec. 160A-49 requires the City to approve the report extending City services to the proposed annexation area at least thirty (30) days prior to the public hearing. The public hearing is scheduled for April 23, 1991.

Ms. Tallerday outlined the report for the extension of the municipal services into the Brevard Road area.

Ms. Tallerday said a neighborhood meeting will be scheduled in April prior to the public hearing date.

Upon motion of Vice-Mayor Moore, seconded by Councilman Frank, Resolution No. 91-34 was unanimously adopted.

Resolution Book No. 18 - Page 360

C. Resolution No. 91-35 - Resolution authorizing the City Manager to execute an agreement with Deloitte & Touche for auditing services for the fiscal year ending June 30, 1991.

The City Manager said General Statute 159-34 requires an annual independent audit. City staff is suggesting reappointment of the firm Deloitte & Touche as auditors for FY '91. He said the contract amount will not exceed $43,000.

Upon motion of Vice-Mayor Moore, seconded by Councilman Frank, Resolution No. 91-35 was unanimously adopted.

Resolution Book No. 18 - Page 361

D. Ordinance No. 1902 - Budget ordinance amendment for Pack Plaza Property Management.

The City Manager said this budget amendment will appropriate $178,000 of investment earnings to Pack Plaza Property Management and Downtown Reserve.

Councilman Bratton moved for the adoption of Ordinance No. 1902. This motion was seconded by Vice-Mayor Moore.

On a roll call vote of 6-0, Ordinance No. 1902 passed on first and final reading.

Ordinance Book No. 12 - Page 338

E. Ordinance No. 1903 - Budget ordinance amendment to appropriate funds for property management of properties owned by the Housing Authority in the East End/Valley Street Neighborhood and Biltmore Avenue Area.

The City Manager said this ordinance will appropriate CDBG program income for property management costs of property owned by the Housing Authority in the East End/Valley Street neighborhood and Biltmore Ave. area. Property maintenance and disposal costs are paid from this account.

Councilman Bratton moved for the adoption of Ordinance No. 1903. This motion was seconded by Vice-Mayor Moore.

On a roll call vote of 6-0, Ordinance No. 1903 passed on first and final reading.

Ordinance Book No. 12 - Page 339

V. CONSENT:

A. Resolution No. 91-37 - Resolution authorizing the City Manager to sign a lease agreement with the Garren Creek Volunteer Fire Department, Incorporated, for use of a fire truck until March 1, 1992 or until delivery of a new fire truck.

SUMMARY: Garren Creek Volunteer Fire Department has lost the use of its primary fire truck. They are buying a new one, but it won't be delivered for some time. Asheville will have a fire truck available for loan in mid-March, after its newest fire truck is expected to be delivered. Action requested of City Council is authorization of City Manager to execute an eleven-month lease of a fire truck to Garren Creek.

Resolution Book No. 18 - Page 363

B. Resolution No. 91-38 - Resolution authorizing the City Manager of the City of Asheville to sign agreement and commitments of site facility use for the Nutrition Program for Older Americans at certain recreation centers.

SUMMARY: The Buncombe County Council on Aging has been designated as the coordinating agency for the Nutrition Program for the elderly for Buncombe County. The Buncombe County Council on Aging and the Asheville Parks and Recreation Department have been working cooperatively with this program at the Reid Memorial Recreation Center, the Senior Opportunity Center, and the West Asheville Recreation Center. This cooperation has resulted in improved services for the elderly in Asheville and Buncombe County.

Resolution Book No. 18 - Page 364

C. Award of bid for two (2) backhoes for Public Works Department, Street Division.

SUMMARY: Recommendation to award to low bidder, Arden Equipment Company, Inc. Arden, North Carolina, in the amount of $63,906.00 for the

purchase of two (2) 1991 J. I. Case Company, Model 580K Phase III Backhoes at a unit price of $31,953.00.

D. Resolution No. 91-39 - Resolution making the findings and authorizing the application to use allocated sales tax revenues for other than Water and Wastewater Capital Needs.

SUMMARY: This resolution makes the findings and authorizes the application to the Local Government Commission for exemption from the requirement to use forty percent (40%) for the first five years and thirty percent (30%) for the next five years of the revenue generated for water and wastewater capital needs and debt service payments.

Resolution Book No. 18 - Page 365 - 366

E. Scheduling of public hearing relative to amending Article 10 of Chapter 30 of the Zoning Ordinance (Penalty Provisions) for April 9, 1991.

SUMMARY: The Asheville Planning and Zoning Commission on February 6, 1991, reviewed and recommended approval of the amendment to the penalty provisions of the Zoning Ordinance.

Upon motion of Vice-Mayor Moore, seconded by Councilman Bratton, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

A. Schedule public hearing relative to Civil Service Rule

Vice-Mayor Moore moved to schedule a public hearing relative to a new Civil Service Board rule for April 23, 1991. This motion was seconded by Councilman Frank and carried unanimously.

B. Resolution No. 91-40 - Resolution calling for a public hearing for the adoption of an ordinance directing the Director of Building Inspection Division to demolish the dwelling located at 143 Blanton Street, Asheville, North Carolina for April 9, 1991.

Vice-Mayor Moore moved for the adoption of Resolution No. 91-40. This motion was seconded by Councilman Frank and carried unanimously.

Resolution Book No. 18 - Page 367-368

C. Council Meeting for April 9, 1991

Mayor Michalove announced that the Council meeting for April 9, 1991, will begin at the Council Chambers, but will recess at approximately 4:30 p.m. and reconvene at the Banquet Hall of the Asheville Civic Center at 5:00 p.m. due to the large number anticipated to attend the public hearings scheduled on that date. He also announced that the Council will conduct a worksession on March 26, 1991, in the 6th Floor training room, and that the Council will not meet on April 2, 1991, due to the Easter holiday.

D. Sister City - Presentation

Carol Alberice, from the Planning Department, and Corrine Meade, City Manager Intern, said three officials from Vladikavkaz, Russia will be visiting Asheville April 13 through April 19. They highlighted events taking place during their visit and asked each Council member to sign up as a sponsor for having breakfast with the officials.

E. REPORT OF GROUP DEVELOPMENT ACTIONS BY THE PLANNING AND ZONING COMMISSION

Don Sherrill, from the Planning Department, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. He said in accordance with the new procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. He said the following action was taken by the Planning and Zoning Commission at their meeting on March 6, 1991.

r (1) LAKEVIEW MOBILE HOME PARK EXTENSION (RESUBMITTAL)

Mr. Sherrill said the Asheville Planning and Zoning Commission on March 6, 1991, reviewed and approved the site plan of Lakeview Mobile Home Park Extension subject to two contingencies: 1) Approval by City Council of a variance to permit the placement of seven (7) mobile homes on a site of 47,700 square feet; and (2) All relocated mobile homes shall be at least twenty (20) feet from internal streets. Vice-Mayor Moore moved to schedule a public hearing relative to the group development plan for Lakeview Mobile Home Park Extension (Resubmittal) for April 9, 1991. This motion was seconded by Councilman Frank and carried unanimously.

r (2) PUBLIC WORKS COMPLEX

Mr. Sherrill said the Asheville Planning and Zoning Commission on March 6, 1991, reviewed and approved the site plan of the Public Works Complex subject to two contingencies: 1) Approval of driveway permit, as required, by NCDOT; and 2) Approval by City Council of the closing of Dixon Alley and another unnamed alley.

Councilman Frank moved to schedule a public hearing relative to the group development plan for the Public Works Department for April 9, 1991. This motion was seconded by Councilman Estes and carried unanimously.

F. Dee Williams - Lease for Buncombe County Child Development Program

Upon inquiry of Dee Williams, Mayor Michalove said the Resolution authorizing the Mayor to execute a lease agreement by and between the City of Asheville and the County of Buncombe for a Buncombe County Child Development Program at Reid Memorial Recreation Center was postponed until all agencies can be notified that Council is considering the action. He said Council particularly wanted to notify the Asheville City School system.

G. Chris Johansen - Bicycle Week - Bike to Work Week

Chris Johansen said he would be requesting that the Mayor proclaim May 12 - 18 as "Bicycle Week" and May 17 as "Bike to Work Day". He said he would be asking Council members to Bike to Work on May 17.

H. Claims -Bill Wolfe (Streets) - Leland Sale (Streets) - David Jackson (Wastewater) - Theresa Darity (Streets) - Lisa Lanning (Water) - Cynthia Crozer (Water) - Earl Conley (Streets)

The City Manager said claims were received from Bill Wolfe, Leland Sale, David Jackson, Theresa Darity, Lisa Lanning, Cynthia Crozer, and Earl Conley.

Mayor Michalove said the claims have been referred to the appropriate insurers for investigation.

VII. ADJOURNMENT

Mayor Michalove adjourned the meeting at 5:55 p.m.

H. M. Michalove
MAYOR

William F. Malone
CITY CLERK

BID SUMMARY
BID REQUEST NO. 380-91

CITY OF ASHEVILLE
PURCHASING DIVISION

BID OPENED: THURSDAY, FEBRUARY 21, 1991 3:00 P.M.

TWO (2) FOUR WHEEL DRIVE BACKHOES FOR PUBLIC WORKS DEPARTMENT, STREET DIVISION

BIDDER	ARDEN EQUIPMENT CO. ARDEN, N. C.	GENERAL TRACTOR ASHEVILLE, N. C.	N. C. EQUIPMENT CO. ASHEVILLE, N. C.	FARM EQUIPMENT CO. ASHEVILLE, N. C.	CAROLINA TRACTOR & EQPT. CHARLOTTE, N. C.
ITEM: 2 BACKHOES					
MAKE:	J. I. Case Co.	John Deere	JCB	Ford	Caterpillar
MODEL:	580K Phase III	310C	1400-B	555-C	416 Series II
YEAR:	1991	1991	1991	1991	1991
UNIT PRICE:	$31,953.00	$31,960.00	$34,919.00	$38,509.00	$45,032.00
AMOUNT:	$63,906.00	$63,920.00	$69,838.00	$77,018.00	$90,064.00
DELIVERY:	15 - 25 Days	30 Days	30 - 45 Days	100 Days	90 Days
TERMS:	Net 30	Net 30	Net 30	Net 30	Net 30

Tuesday - March 26, 1991 - 1:00 P.M.

Worksession Meeting

Meeting held in 6th Floor Training Room - City Hall Building

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Wilhelmina Bratton

A. Downtown Design Tour.

Members of Council and the City staff involved in Downtown Design took a tour of downtown to review the proposed boundary of the City Council subcommittee on Downtown Design and also the proposed boundary recommended by the Planning and Zoning Commission.

B. Recyling Work Session.

Vicki Heidinger, Executive Assistant, gave members of Council a status update and report related to recycling, reuse and waste reduction. This report included City - Goals and Objectives Update, City Hall Recycling, and regional and private efforts.

David Johnson, with Curbside Management, Inc. also gave a presentation on his proposal to collect newspaper at curbside in selected areas in Asheville.

Invited to the session were the following: Buncombe County Solid Waste Committee, County officials, representative from the Council of Governments who works on recycling, representatives from Southeastern Container, County staff, private waste haulers, and a representative from Lowe's of Asheville.

After the discussion, Councilman Ellison moved to approve putting a city recyling center in the parking lot of Lowe's on Patton Avenue in West Asheville; to support the recommended public education efforts and to support staff investigation and development of procurement guidelines for recycled products. This motion was seconded by Vice-Mayor Moore and carried unanimously.

C. Design Review Workshop.

A discussion was held relative to Downtown Design Review.

After discussion, Vice-Mayor Moore moved that the City Council request the local delegation to the state legislature initiate special legislation authorizing the City of Asheville to enact an ordinance providing for the appointment of a Design Appearance Review Commission authorized to establish standards for the construction and renovation of property within the Central Business District area and to compel mandatory compliance with those standards. This motion was seconded by Councilman Price and carried unanimously.

D. Discussion of Water Authority Appointment

Resolution No. 91-41 - Resolution appointing member to the Asheville-Buncombe Water Authority.

Councilman Ellison moved to adopt Resolution No. 91-41 appointing Roy Harris as a member of the Asheville-Buncombe Water Authority to begin as a voting member on October 1, 1991 and serve for a term of three (3) years, term expiring December 31, 1994, or until his successor is duly appointed and qualified. Mr. Harris to serve as a non-voting interim member on the authority from March 26, 1991 until September 30, 1991. This motion was seconded by Councilman Price and carried unanimously.

Resolution Book No. 18 - Page 369

E. Group Development Review.

A. Asheville Airport Terminal Expansion - Phase III

Don Sherrill, from the Planning Department, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. He said in accordance with the new procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. He said the following action was taken by the Planning and Zoning Commission at their meeting on March 20, 1991.

Mr. Sherrill said the Asheville Planning and Zoning Commission on March 20, 1991, reviewed and approved the site plan of the Asheville Airport Terminal Expansion - Phase III subject to the developer providing the Asheville Fire Department with the proper documentation that the existing water supply is adequate to meet the demands of the proposed sprinkler system.

Council took no action, thus accepting the recommendation of the Planning and
Zoning Commission relative to the Asheville Airport Terminal Expansion - Phase III.

F. Adjournment

Council adjourned at 5:15 p.m.

K. M. Michalove
MAYOR

William F. Malcolm
CITY CLERK

Tuesday - April 2, 1991 - 4:00 P.M.

Regular Meeting

NO MEETING

CANCELLED - EASTER HOLIDAY

MAYOR

CITY CLERK

Tuesday - April 9, 1991 - 4:00 P.M.

Regular Meeting, Council Chambers

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Bratton - out on personal business
Councilman Ellison arrived at 4:10 PM
Councilman Frank arrived at 5:30 p.m.

INVOCATION

The invocation was given by Councilman Price.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the minutes of the March 19, 1991 and March 26, 1991 meeting as submitted.

I. PROCLAMATIONS:

A. State Treasurer's Accounting/Financial Management Award.

Mr. Donald Horton, Assistant Secretary from the State Treasurer's Office said two years ago the State Treasurer's office began this program to encourage all units of local government in North Carolina to continually strive to upgrade their accounting and financial management programs, systems, methods and procedures. All counties, municipalities, school units, special districts and public authorities in the state are eligible. Applications are evaluated by the Governmental Accounting and Auditing Committee of the North Carolina Association of Certified Public Accountants. City staff submitted an application for fiscal year 89-90 regarding the City's automation upgrade program. The Mayor was notified by letter from the State Treasurer in mid-February that the City's program is the winner of the State Treasurer's Accounting/Financial Management Award.

Mr. Horton presented the award and plaque to Larry Fisher, Director of Finance. Mr. Fisher also gave recognition for the City receiving the award to Charlotte Tell, City Accountant and Larry Bopp, Data Processing

Director.

Councilman Ellison arrived at the meeting at 4:10 p.m.

B. Presentation of Award to Mike Moser

Julia Cogburn, Planning Director, said the North Carolina Planning Association, at their Annual Awards Banquet to be held on April 25, 1991, will be presenting to Mike Moser, Chairman of the Planning and Zoning Commission, an award for Outstanding Appointed Official.

C. Resolution No. 91-42 - Resolution of appreciation for recent retiree, Helen Campbell.

Bill Murphy, Civic Center Director, said Helen Campbell has served the City of Asheville and its citizens for 15 years. He said she was one of the "behind-the-scene" employees who, through extra effort and attention to small details, provided the special level of service the Civic Center strives to achieve.

Mayor Michalove read the resolution of appreciation.

Upon motion of Councilman Price, seconded by Vice-Mayor Moore, Resolution No. 91-42 was unanimously adopted.

Resolution Book No. 18 - Page 370

D. Resolution No. 91-43 - Resolution of appreciation for recent retiree, James Guy.

Ray Kisiah, Director of Parks and Recreation, said James Guy has served the City of Asheville and it citizens for 34 years. He said Mr. Guy worked in various capacities within the Parks and Recreation Department the last 19 years saving the City many thousands of dollars through his personal creativity and abilities as Maintenance Shop Supervisor. He said during these years James Guy has been the person to respond to emergency repair situations after hours, weekends and holidays, and has performed these services willingly and efficiently at all hours and at considerable personal sacrifice.

Mayor Michalove read the resolution of appreciation.

Upon motion of Councilman Price, seconded by Vice-Mayor Moore, Resolution No. 91-42 was unanimously adopted.

Resolution Book No. 18 - Page 370

E. City Manager Interns - Linda Adams - Mike Greene

The City Manager introduced the new City Manager interns, those being Linda Adams from the Water Department and Mike Greene from the Fire Department.

IV. CONSENT:

A. Scheduling of public hearing relative to Hillside Development Requirements for May 7, 1991.

SUMMARY: Ordinance amending the Hillside Development Requirements as set forth in Ordinance Number 631. The proposed amendments would assure that graded areas are distributed throughout the site and extend the Hillside Development Regulations to subdivisions.

B. Scheduling of public hearing relative to Grades for Subdivision and Group Development Streets for May 7, 1991.

SUMMARY: The Asheville Planning and Zoning Commission on February 6, 1991 reviewed and recommended approval of an amendment to Chapters 26 and 30 of the City's Code of Ordinances. The proposed amendment establishes a maximum grade of 15% for subdivision and group development streets and authorizes the Board of Adjustment to grant variances for steeper grades.

C. Scheduling of public hearing relative to extraterritorial zoning jurisdiction of the City of Asheville - West Area specified for May 7, 1991.

SUMMARY: The Asheville Planning and Zoning Commission has recommended that the area specified as the "West Area" be included in the City's extraterritorial zoning jurisdiction and that specific zoning classifications delineated in the ordinance be assigned to the property included in the proposal. The action specified was acted upon at a special meeting held on December 12, 1990. held on December 12, 1990.

D. Resolution No. 91-44 - Resolution authorizing the City Manager to execute utility agreement with the North Carolina Department of Transportation for the Airport Road and I-26 twelve inch waterline.

SUMMARY: This agreement provides for the North Carolina Department of Transportation to install a 12-inch waterline on Airport Road at I-26, in conjunction with the Brevard Road/I-26 connector.

State Project R-0401E (8.1950205)

Resolution Book No. 18 - Page 372

E. Resolution No. 91-45 - Resolution authorizing the City Manager to execute utility agreement with the North Carolina Department of Transportation for the installation of a 12-inch waterline in conjunction with the Meadow Road Bridge over Southern Railway Improvement Project.

SUMMARY: This agreement provides for the North Carolina Department of Transportation for the Meadow Road Bridge over Southern Railway Improvement Project.

Resolution Book No. 18 - Page 373

F. Resolution No. 91-46 - Resolution authorizing the Mayor to file a grant application with the North Carolina Department of Crime Control and Public Safety for the Police Department's Victim Assistance Program.

SUMMARY: This would authorize the Mayor to submit a federal grant application to support the Police Department's Victim Assistance program targeting victims of violent crimes and their families. The name of the project is Victim Advocate. Application must be submitted by April 15, 1991. Project period is July 1, 1991 through June 30, 1992.

Resolution Book No. 18 - Page 374

G. Resolution No. 91-47 - Resolution authorizing the Mayor to file a grant application with the North Carolina Department of Crime Control and Public Safety in support of a Drug Enforcement Program.

SUMMARY: The City has been approved to submit a federal grant application to support a drug law enforcement program targeting public housing communities. This is a continuation of the current HAND project. The name of the project is HAND II. It will involve 1) the assignment of officers on an overtime basis to conduct high visibility patrols; and 2) the purchase of specialized covert investigation equipment for use in undercover investigations. Application must be submitted by April 15, 1991. Project period is July 1, 1991 - June 30, 1992.

Resolution Book No. 18 - Page 375

H. Resolution No. 91-48 - Resolution authorizing the Mayor to execute a non-warranty deed concerning a parcel of property adjoining Poplar Street.

SUMMARY: William H. Hutchison has requested the City to convey any interest that it may have in an old right-of-way abandoned by the North Carolina Department of Transportation located on Poplar Street in the City of Asheville.

Resolution Book No. 18 - Page 376

I. Resolution No. 91-49 - Resolution authorizing the Mayor to accept a deed from the Housing Authority of the City of Asheville for the Martin Luther King, Jr. Park property and authorizing the City Clerk to execute an affidavit with regard to a notice of limitation of use for the property.

SUMMARY: The property for the Martin Luther King, Jr. Park was donated to the City of Asheville through the Urban Renewal Program by the Asheville Housing Authority. The Housing Authority served as the representative for the City and securing this property and has prepared the deed to transfer this property to the City of Asheville. This action will be necessary to accept this property. Also, the State of North Carolina, as part of the requirements to substitute this property for Bee Tree Lake under the Land and Water Conservation Fund Program, requires that a Notice of Limitation of Use be adopted by the City and recorded with the deed to this property. This resolution provides for both the acceptance of the property and the recording of the limitation of use.

Resolution Book No. 18 - Page 377

J. Resolution No. 91-50 - Resolution authorizing the Mayor to execute a lease agreement by and between the City of Asheville and the County of Buncombe for a Buncombe County Child Development Program at Reid Memorial Recreation Center.

SUMMARY: The City of Asheville and the County of Buncombe have previously entered into a lease wherein space at Reid Memorial Recreation Center was leased by the City to the County for a child development program. That lease has now expired and the parties have agreed to renew that lease. This resolution will authorize the Mayor to execute a new lease for this purpose.

Resolution Book No. 18 - Page 378

Upon motion of Vice-Mayor Moore, seconded by Councilman Ellison, the consent agenda was unanimously approved.

II. OLD BUSINESS:

III. NEW BUSINESS:

A. Budget Ordinance amendment increasing public funding for Asheville Transit Authority.

The City Manager said the Asheville Transit Authority has experienced cost overruns for fiscal year 1990/91. This action is required to provide funding to continue service at present levels through June 30, 1991. This action will increase public funding for ATA from $1,362,900 to $1,505,140 or $142,240.

Councilman Ellison said it was his understanding that Council was to have a work session relative to the Asheville Transit Authority Budget prior to any decis ions being made on their budget. He requested that action on the budget amendment until Council could have a report from the Authority.

The City Manager said Council would be discussing outside agency budgets on April 29, 1991 and Council could consider this amendment after that time.

Wanda Winslow, Chairman of the Asheville Transit Authority, said without the budget amendment this year the bus operation will have to shut down for one month. She said she would be prepared to make a presentation to Council on April 29, 1991.

MEETING CONTINUED AT CIVIC CENTER - 5:00 P.M.

Councilman Ellison moved to recess the meeting and to reconvene this meeting at 5:00 p.m. at the Asheville Civic Center Banquet Room. This motion was seconded by Councilman Price and carried unanimously.

The meeting reconvened at 5:00 p.m. at the Asheville Civic Center with the following present:

Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

V. PUBLIC HEARINGS:

A. Public hearing relative to annexation of area known as Haw Creek II Area.

Mayor Michalove said N. C. Gen. Stat. sec. 160A requires the City to hold a public hearing relative to the proposed annexation at least ten (10) days prior to the adoption of an ordinance for the annexation.

Mayor Michalove opened the public hearing at 5:04 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

By the use of a map, Patty Tallerday, Senior Planner, described the boundaries proposed to be annexed, and explained the report of plans to provide municipal services to the area. She said the area meets state criteria to qualify for annexation.

She stated that upon the effective date of annexation the City will provide to the area the same level of City services as is provided presently in the City of Asheville with the exception of water and sewer services which will be in place within two (2) years.

She described the manner in which the city would provide the services to the area residents and stated that copies of the plan were available at the public hearing, as well as at the City Clerk's Office.

Van Gerald, 425 Sondley Woods Parkway, representing the Haw Creek Taxpayer's Association, said fifty percent (50%) of the residents have joined the Association and contributed to the fund. He said the residents oppose the annexation stating that the residents in the proposed area should be allowed to vote on whether or not they want to be annexed. He said the annexation is unfair, unjust, and contrary to the constitution. He said the residents' tax bills will have a tripling effect this year because of reevaluation.

Councilman Frank arrived at 5:30 p.m.

The following individuals also spoke in opposition to the annexation:

Gordon Miners, 8 Mann Road
Fred Lewis - 38 Haw Creek Circle
Eugene Ross - 928 New Haw Creek Road
Birch Snyder - 448 Sondley Estates
Jim File - 108 Sondley Parkway
Mary Ellen Williams - 112 Sondley Parkway
Mr. Schulz - Mann Road

Mayor Michalove said this proposed annexation was outlined in the 2010 Plan adopted in 1987. He said this document was developed by thousands of residents and has been a guideline for the City of Asheville.

Mayor Michalove also responded to concerns expressed by Mr. Jarrell relative to the proposed annexation.

A discussion was held relative to the involvement of the Haw Creek Volunteer Fire Department. Mr. Robert Griffin with the Asheville Fire Department said the city staff will be meeting with the Board of Directors of the Fire Department on April 11, 1991 and the residents in the area can be assured that they will receive the same level of fire protection as other residents in the City.

Harry Burnette - 276 Haw Creek Road - with the Haw Creek Volunteer Fire Department, said a contract relative to fire protection services will be negotiated during the meeting on April 11, 1991.

A discussion was also held relative to the state maintenance of the roads and the city's proposed estimate to bring the roads in question up to City standards. It was determined that the city staff would make a thorough comparison if they were furnished with the state's specifications.

Mayor Michalove closed the public hearing at 6:55 p.m. and stated that the first reading of the ordinance would be held on April 23, 1991

B. Public hearing relative to Lakeview Mobile Home Park Extension (Resubmittal).

Mayor Michalove opened the public hearing at 7:00 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Don Sherrill, Urban Planner, said George Jenson, agent for the owner, is requesting the addition of seven (7)

mobile homes to an existing mobile home park. The park is located on Miami Circle in Skyland. Water and sewer service is available for the additional mobile homes. Fire protection is available. The developer plans to install a fire hydrant.

Based upon the guidelines set forth in the zoning ordinance for mobile home parks, an area of 49,651 square feet is required for 7 mobile homes. The project area is 47,700 square feet. A variance will be required to permit the placement of the 7 mobile homes on the site.

Upon reviewing the site plan and hearing the comments of the planning staff and the project engineer, the Planning and Zoning Commission voted to approve the request with two contingencies:

1. Approval by City Council of a variance to permit the placement of seven (7) mobile homes on a site of 47,700 square feet; and

2. All relocated mobile homes shall be at least twenty (20) feet from internal streets.

Mr. Sherrill said the staff recommendation was for denial due to the requirement of 49,651 square feet for 7 mobile homes and the project area is 47,700 square feet.

Mr. Jensen spoke in support of the project stating that the owner would like to utilize as much of his land as possible. He said all the lots will be in excess of 7,000 square feet. He said the project was originally disapproved due to inadequate fire protection, however that problem has been corrected.

After discussion, Mayor Michalove closed the public hearing at 7:15 p.m.

Councilman Ellison moved to approve the site plan for Lakeview Mobile Home Park Extension (Resubmittal) subject to the conditions outlined by the Planning and Zoning Commission and that the requested variance be granted. This motion was seconded by Councilman Estes and carried on a voice vote of 4-1, with Vice-Mayor Moore voting "no."

C. Public hearing relative to Public Works Complex.

Mayor Michalove opened the public hearing at 7:18 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Don Sherrill, Urban Planner, said the City of Asheville proposes to construct the Public Works Complex on a 7 acre site located on South Charlotte Street. The complex will consist of 6 buildings with approximately 80,000 square feet under roof. Administrative offices, storage space, and maintenance facilities will be provided at the complex. A variance from the front setback requirements established by the Zoning Ordinance was previously granted to permit the development of the interior storage yard. Development of the complex will require the relocation of Beaumont Street. Dixon Alley and another unnamed alley will need to be closed. After reviewing the project plans and hearing comments from staff and the project architect, the Planning and Zoning Commission recommended approval of the group ent development request with the following contingencies:

1) Approval of driveway permit, as required, by NCDOT;

2) Approval by City Council of the closing of Dixon Alley and another unnamed alley.

The City Manager said the Public Works Complex has been in the process for many years and is very much needed. He said the complex will provide a safer and healthier environment for the employees. He said this will also provide a covered storage area for equipment.

Mayor Michalove closed the public hearing at 7:27 p.m.

Councilman Ellison moved to approve the site plan for the Public Works Complex subject to the conditions outlined by the Planning and Zoning Commission. This motion was seconded by Vice-Mayor Moore and carried unanimously.

D. Public hearing relative to closing Dixon Alley and unnamed alley off Beaumont Street.

Resolution No. 91-51 - Resolution to close Dixon Alley and unnamed alley off Beaumont Street.

Mayor Michalove opened the public hearing at 7:18 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

The City Manager said a petition has been received from the Asheville Housing Authority to close Dixon Alley between Beaumont Street and Velvet Street and an unnamed alley off Beaumont Street. The petitioned streets are in the area of the new proposed Public Works Complex and are not currently open for use.

Mayor Michalove closed the public hearing at 7:27 p.m.

Upon motion of Councilman Ellison, seconded by Vice-Mayor Moore, Resolution No. 91-51 was unanimously approved.

Resolution Book No. 18 - Page 379-380

E. Continuation of public hearing relative to closing Post Street.

Mayor Michalove said a petition to close Post Street between North French Broad Avenue and Otis Street has been received from the United States of America General Services Administration. GSA is the owner of all property adjoining the street petitioned to be closed with the exception of one lot which they are in the process of purchasing but which has not been consummated at this point in time. The closing of Post Street will allow for the construction of the new Federal Building Project. All public utility companies have been requested to provide information for utility easements which may need to be retained. This public hearing was continued from the March 19, 1991 meeting.

The City Attorney suggested that the process for the closing of Post Street start over due to the fact that the street was improperly posted.

Resolution No. 91-52 - Resolution of intent to close Post Street between North French Broad and Otis Streets and calling a public hearing on the question for May 21, 1991

Upon motion of Vice-Mayor Moore, seconded by Councilman Estes, Resolution No. 91-52 was unanimously approved.

Resolution Book No. 18 - Page 381

F. Continuation of public hearing relative to closing an unnamed public alley between Otis Street and Patton Avenue.

Resolution No. 91-53 - Resolution closing an unnamed public alley between Otis Street and Patton Avenue

Mayor Michalove said a petition to close an unnamed alley between Otis Street and Patton Avenue has been

received from the United States of America General Services Administration. GSA is the owner of all property adjoining the unnamed alley petitioned to be closed with the exception of one lot which they are in the process of purchasing but which has not been consummated at this point in time. The closing of the unnamed alley will allow for the construction of the new Federal Building Project. All public utility companies have been requested to provide information for utility easements which may need to be retained. This public hearing was continued from the March 19, 1991 meeting.

The City Manager said Alan Cartridge from the U. S. Forest Service appeared at the public hearing on March 19, 1991 and requested that the easement the Forest Service has on this property remain until such time as the new building is constructed. He said he had received assurance from the Assistant Regional Manager of the General Services Administration that the U. S. Forest Service sign could stay on the property until the new building is constructed.

Mayor Michalove closed the public hearing at 7:30 p.m.

Upon motion of Councilman Ellison, seconded by Vice-Mayor Moore, Resolution No. 91-53 was unanimously adopted.

Resolution Book No. 18 - Page 382

G. Public hearing relative to closing an unnamed alley running west off Oaklawn Avenue.

Mayor Michalove opened the public hearing at 7:32 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Jim Ewing, Director of Public Works, said a petition to close an unnamed alley off Oaklawn Avenue has been received from Grace Episcopal Church. The unnamed alley is adjoined by property in the ownership of Grace Episcopal Church and no other property owners are involved. Utility companies have been contacted to provide utility easement needs. provide utility easement needs.

A member of the Grace Episcopal Church, Larry Harris, said the church owns all adjoining property and proposes to use this property for expanding their parking lot.

Bill Mull, 30 Ottari Road, spoke in opposition to the closing of this alley, stating that if the church makes this property into a parking lot this action will decrease his property value and diminish their views. He also commented that the property was not properly posted.

After discussion, Vice-Mayor Moore moved to continue the public hearing relative to closing the unnamed alley until April 23, 1991 without further advertisement. This motion was seconded by Councilman Estes and carried unanimously.

H. Public hearing relative to an ordinance directing the Director of Inspections to demolish 143 Blanton Street

Ordinance No. 1905 - Ordinance directing the Director of Building Inspections Division to demolish the dwelling located at 143 Blanton Street.

Mayor Michalove opened the public hearing at 7:45 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Jeff Trantham, from the Inspections Division, said in accordance with procedures and requirements contained in G.S. 160A-364, a public hearing is required to adopt an ordinance directing the Director of Building Inspections to proceed with the demolition and removal of the dwelling known as 143 Blanton Street; Asheville, North Carolina, or otherwise comply with the provisions of the Housing Code of the City of Asheville.

He said all notifications have been given and the City can demolish the house for $3,500 within thirty (30) days from the date of adoption of the ordinance. He said the cost of demolition will be placed as a lien against the property.

Mr. Trantham said all notifications have been sent to the owner by certified mail, return receipt requested. He said the owner has signed for the notices but has not responded to any notice.

Mayor Michalove closed the public hearing at 7:50 p.m.

Councilman Frank moved for adoption of Ordinance No. 1905. This motion was seconded by Vice-Mayor Moore.

On a roll call vote of 6-0, Ordinance No. 1905 passed on first reading.

Councilman Ellison requested that the owner be given one final notice that Council is taking final action on demolition of the house.

Chris Johansen asked if there is any way that the City

could purchase the house under eminent domain and sell it to Mountain Housing Opportunities in order that the house could be rehabilitated.

Council asked the City Manager to investigate the feasibility of Mr. Johansen's suggestion prior to the second reading of the ordinance.

I. Public hearing relative to amending Zoning Ordinance relative to penalty provisions

Ordinance No. 1906 - Ordinance amending Article 10 of Chapter 30 of the Code of Ordinances of the City of Asheville (Penalty Provisions)

Mayor Michalove opened the public hearing at 7:52 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Gerald Green with the Planning Department said the Asheville Planning and Zoning Commission on February 6, 1991 reviewed and recommended for approval an amendment to Article 10 of Chapter 30 of the Code of Ordinances of the City of Asheville. The proposed amendment would strengthen the penalty provisions of the Zoning Ordinance by providing for penalties in addition to the currently permitted criminal penalties for violation of the Zoning Ordinance. Penalties authorized by the proposed amendment are:

- Issuance of a citation setting forth the civil penalty of $200 for violation of the Zoning Ordinance;

- Revocation of any and all zoning permits issued for the property; and

- City Attorney may seek injunctive or other appropriate relief.

The proposed amendment will improve the ability of the Planning Department to enforce the Zoning Ordinance.

Mayor Michalove closed the public hearing at 7:55 p.m.

Vice-Mayor Moore moved for the adoption of Ordinance No. 1906. This motion was seconded by Councilman Frank.

On a roll call vote of 6-0, Ordinance No. 1906 passed on first reading.

NEW BUSINESS (CONT'D)

B. Ordinance No. 1904 - Ordinance amending Section 25.5 of the Code of Ordinances of the City of Asheville (Selling and Entertaining on Streets and Sidewalks)

The City Manager said the code was amended approximately one year ago to allow for push cart vending, sidewalk entertainment and outdoor dining. These amendments allow for the following:

- Insurance - Clarify requirements; eliminate coverage for sidewalk entertainers; reduce coverage for non-food vendors

This may encourage more permits to be sold - $25.00 each.

Councilman Price moved for the adoption of Ordinance No. 1904. This motion was seconded by Councilman Frank.

On a roll call vote of 6-0, Ordinance No. 1904 passed on first reading.

VI. OTHER BUSINESS

A. Water Authority - Conservation Committee

A discussion was held relative to the establishment of a Water Conservation Committee to work with the Water Authority to be appointed independently or to be appointed by the Water Authority.

It was the consensus of Council that the Mayor write a letter to the Chairman indicating that Council desires that the committee be appointed by the Water Authority.

B. Beaver Lake Heights Subdivision - Larry Buckner

Albert Sneed, Attorney representing Larry Buckner, said his client has been working with the Planning Department attempting to get approval of a subdivision in Beaver Lake Heights since September, 1990. He said Mr. Buckner has invested lots of money into these lots. He said it was Mr. Buckner's opinion that the Water Department had originally approved water for the area then found out later that the area did not have sufficient water for the development. He said he had offered to install a new water line and sprinkle each individual house. He said he had also offered to install a private water system and sprinkle each individual house.

Mr. Sneed said his client is now seeking approval of the

preliminary plat from Council pursuant to the Subdivision Ordinance in that the Planning and Zoning Commission did not take action for 45 days and the ordinance allows the developer to bring the plat to Council after that time.

A lengthy discussion was held relative to internal memorandums written relative to water availability in the area.

Harold Huff, Director of Water and Sewer Services, said there is sufficient water for domestic use but the water availability and the pressure is not enough for fire protection. He also said at certain times the area residents currently experience low water pressure. He said this problem should be taken care of in 4 or 5 years when a new water source is put into place.

Mr. Bullock of 1 Greenleaf Circle spoke in opposition to the approval of the preliminary plat for Beaver Lake Heights expressing the following concerns:

1) After construction equipment is used on the roadways the roadways will need to be fully overlaid. Who is going to make sure this is done?

2) There are a number of springs in the area that feed the lake - who is going to take care of sedimentation that goes into the lake?

3) Traffic in the area will be increased.

4) Fire protection is not adequate.

The Planning Director advised that the Planning and Zoning Commission would be hearing this matter again on April 17, 1991.

Mayor Michalove said it seems that Council has a choice of three options: 1) Approve the request of the developer for approval; 2) Wait until the Planning and Zoning Commission takes action on April 17, 1991; or 3) reschedule this matter to be heard by Council on April 23, 1991.

After discussion, Councilman Ellison moved that the Beaver Lake Heights Subdivision be placed on Council's agenda for April 23, 1991 if the developer does not receive satisfactory approval from the Planning and Zoning Commission on April 17, 1991. This motion was seconded by Vice-Mayor Moore and carried unanimously.

rC. Report of Group Development Actions by Planning and Zoning Commission

Don Sherrill from the Planning Department, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. He said in accordance with the new procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. He said the following action was taken by the Planning and Zoning Commission at their meeting on April 3, 1991.

r(1) UNC-A Dining Hall

Mr. Sherrill said the Asheville Planning and Zoning Commission on April 3, 1991, reviewed and approved the site plan of UNC-Asheville Dining Hall - Parking Deck. Council accepted the recommendation of the Planning and Zoning Commission relative to the site plan of UNC-Asheville Dining Hall - Park Deck.

D. Subdivision Mark Carlson - 245 Old Haw Creek Road

Don Sherrill, with the Planning Department, said Haw Creek Trace is a proposed four (4) lot residential subdivision to be located at 245 Old Haw Creek Road. The entire site is 1.24 acres in area and the lot sizes range from 9,000 square feet to 19,000 square feet in area. The land is presently vacant and lies within the R-3 Medium Density Residential Zone. All services are available.

At their meeting April 3, 1991, the Asheville Planning and Zoning Commission voted to approve the preliminary plat for Haw Creek Trace with two contingencies:

1) City Council grant a variance on the street right-of-way width and the cul-de-sac radius.

2) The proposed sewer line be approved by the North Carolina Division of Environmental Management prior to issuance of any building permit.

Mr. Sherrill said the developer is asking for a 30' street right-of-way instead of a 50' street right-of-way.

After discussion, Councilman Ellison moved to approve the variance for the subdivision plat for Mark Carlson as recommended by the Planning and Zoning Commission. This motion was seconded by Vice-Mayor Moore and carried unanimously.

E. Claims - Peggy Saager (Streets) - Sophia Brook (Inspections) - Faison Hester (Water) - Brenda Hudgins (Water) - Marty Cundiff (Water) - Robert Palmer (Water) - Robert Stevenson (Water) - Walter C. Harlow (Fire Department) - Margaret Fitzpatrick (Streets) - John Soprano (Sanitation) - Terry Moore (Wastewater)

The City Manager said claims were received from Peggy Saager, Sophia Brook, Faison Hester, Brenda Hudgins, Marty Cundiff, Robert Palmer, Robert Stevenson, Walter C. Harlow, Margaret Fitzpatrick, John Soprano, and Terry Moore.

Mayor Michalove said the claims have been referred to the appropriate insurers for investigation and recommendation.

F. Lawsuits - Florence Brummer and Harry Brummer (Appeal from Board of Adjustment decision)

The City Manager said on March 25, 1991, the City was served with a lawsuit involving Florence Brummer and Harry Brummer regarding an appeal from a Board of Adjustment decision.

Mayor Michalove referred the lawsuit to the City Attorney for investigation and recommendation.

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 9:10 p.m.

H. M. Michalove
MAYOR

William D. Marcatte
CITY CLERK

Tuesday - April 16, 1991 - 1:30 P.M.

Work Session - Meeting

6th Floor Training Room - City Hall Building

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott

Absent:

A. Budget Work Session

Members of Council held a work session on the up coming City of Asheville Budget for 1991-92.

B. Community Development Block Grant Goals

Members of Council were presented Community Devleopment Block Grant Goals and Objectives.

After discussion, it was the consensus of Council to accept the Goals and Objectives as presented.

K.M. Michalove
MAYOR

William F. Wolcott
CITY CLERK

Tuesday - April 23, 1991 - 4:00 P.M.

Regular Meeting, Asheville Civic Center Banquet Room

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Bratton arrived at 4:35 PM

INVOCATION

The invocation was given by Councilman Ellison.

APPROVAL OF MINUTES

Mayor Michalove announced that approval of the minutes of the April 9, 1991 meeting would be postponed until the next meeting.

Mayor's Award to Carolina Power and Light Company

Mayor Michalove presented Charles Dyson, with Carolina Power and Light Company, a Mayor's Greenway Award for their generous offer of property on the French Broad River for a park.

He said he was implementing a Mayor's Award Program and this was the first award to be presented.

Resolution No. 91-60 - Resolution authorizing the acceptance of a deed from Carolina Power and Light Company for property along the French Broad River.

Mayor Michalove said this resolution will authorize the Mayor to accept a deed from Carolina Power and Light Company for property along the French Broad River for such uses as identified in the Riverfront Plan.

Upon motion of Councilman Frank, seconded by Vice-Mayor Moore, Resolution No. 91-60 was unanimously adopted.

Resolution Book No. 18 - Page 390

I. PROCLAMATIONS:

A. Proclamation - "Respect for Law Week" - May 1 - 7, 1991

Mayor Michalove proclaimed the week of May 1 - 7, 1991 as "Respect for Law Week" and presented a copy to Pete Bradley with the Asheville Police Department.

B. Proclamation - "Prayer Day" - May 2, 1991.

Mayor Michalove proclaimed May 2, 1991 as "Prayer Day".

C. Proclamation - "Volunteer Week" - April 21 - 27, 1991

Mayor Michalove proclaimed the week of April 21 - 27, 1991 as "Volunteer Week".

D. Proclamation - "Proud and Free" - April 27, 1991

Mayor Michalove proclaimed April 27, 1991 as "Proud and Free" and presented a copy to Russ Mallard.

E. Proclamation -"Points of Light - Celebration of Service " - April 15 - April 26, 1991

Mayor Michalove proclaimed April 15 - 26, 1991 as "Points of Light - Celebration of Service".

F. Presentation of Distinguished Budget Presentation Award.

The City Manager said the Government Finance Officers Association presented a Distinguished Budget Presentation Award to the City of Asheville, North Carolina for its annual budget for the fiscal year beginning July 1, 1990. He recognized and presented the award to Bob Wurst, Audit and Budget Director.

G. Presentation of Certificates to City Manager Intern David Adams and Corrine Meade.

The City Manager presented certificates to City Manager Interns David Adams and Corrine Meade.

H. Resolution No. 91-54 - Resolution of appreciation for recent retiree, Johnnie Crouch.

Police Chief Beavers read the resolution stating that Mr. Crouch has been employed by the City of Asheville since May, 1966. He said Mr. Crouch served in the Patrol and Detective Division of the Police Department. He earned the respect of his peers and subordinates through his calm demeanor and even handling of situations.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 91-54 was unanimously adopted.

Mayor Michalove presented the resolution to Mr. Johnnie Crouch.

I. Resolution No. 91-55 - Resolution of appreciation for recent retiree, Wayne Warren.

Mayor Michalove read the resolution stating that Mr. Warren has been employed by the City of Asheville since March, 1975. He said Mr. Warren served most of his career in the Patrol Section. He was assigned to the Criminal Investigation Division for two years where he served as an Evidence Technician.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 91-55 was unanimously adopted.

Resolution Book No. 18 - Page 384

J. Resolution No. 91-56 - Resolution of appreciation for recent retiree, Thomas Holcombe.

Police Chief Beavers read the resolution stating that Mr. Holcombe has been employed by the City of Asheville since August, 1952. He said Mr. Holcombe served in the Juvenile Unit of the Criminal Investigation Division for over 16 years and received numerous commendations for his outstanding work. He constantly was doing extra things to help the children so that it became known that if a young person needed help, they should go to Tom Holcombe. He was known, respected, and loved by his peers, his commanding officers, but more importantly, by the children he served.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 91-56 was unanimously adopted.

Resolution Book No. 18 - Page 385

Mayor Michalove presented the resolution to Mr. Thomas Holcombe.

K. Resolution No. 91-57 - Resolution of appreciation for recent retiree, Doug Ingle.

Mayor Michalove read the resolution stating that Doug Ingle has been employed by the City of Asheville since August, 1967. He said Mr. Ingle has been instrumental in developing the Containerized Collection Routing Plan for Sanitation Area No. 1. He developed a high degree of respect and promoted the City of Asheville in a very professional manner through his contacts with residents in Sanitation Area No. 1.

Upon motion of Vice-Mayor Moore, seconded by Councilman Price, Resolution No. 91-57 was unanimously adopted.

Resolution Book No. 18 - Page 386

II. PUBLIC HEARINGS:

B. Public hearing relative to Civil Service Rule.

Mayor Michalove opened the public hearing at 4:30 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

The City Attorney said the Civil Service Board on March 6, 1991, adopted a new rule which provides for a City employee who sustains a work-related injury and who is no longer capable of performing the duties required in his or her regular job be permanently assigned without competitive examination to another position for which the employee is vocationally and physically suited in the Classified Service of the City of Asheville. Pursuant to law, the City Council must approve or disapprove, and may amend, the rule, following a public hearing. This resolution provides for approval of the rule as adopted by the Civil Service Board.

Councilman Bratton arrived at 4:35 p.m.

The City Attorney said after meeting with the employees it was suggested that the following two sentences be added to the rule:

1) Provided, however, that in the event that more than one job classification is available for which the employee is vocationally and physically suited, the employee shall be allowed to choose the position in which he is to be placed, if feasible.

2) Provided, further, that where a position is available within the employee's existing department for which the employee is vocationally and physically suited, the employee shall be allowed to remain within that department if feasible.

The City Attorney said these actions would have to have the approval of the Personnel Director, the City Attorney, and the Civil Service Board.

David McFee, with the Asheville Fire Department, spoke in opposition to the new rule stating that worker's compensation is governed by the state legislature and

should remain that way. He said whether an employee takes on a new position should be the employee's choice since worker's compensation is a benefit to the employee and the employee is entitled to the benefits without being forced to take another position in which the employee may not want.

Ralph Bishop questioned who would determine if the employee could perform the new task.

Glen Holbert, speaking on behalf of the Asheville Firefighter's Association, spoke in opposition to the proposed rule. He said the Civil Service Board only approved the rule on a 3-2 vote.

A discussion was held relative to whether or not an employee would have to take a position that was demeaning.

Councilman Ellison suggested that a provision be put in the rule that no employee shall be forced to take a position that would be demeaning. He said since the City is treading on new ground that he would also suggest that the staff check with other cities and private industry to see if they have such provisions.

Mayor Michalove closed the public hearing at 5:25 p.m.

Vice-Mayor Moore moved to table the issue until a staff report can be brought back to Council as to what other cities and private industry provides relative to worker's compensation (matter to be brought back to Council within 30 days). This motion was seconded by Councilman Bratton and carried unanimously.

A. Public hearing relative to annexation of an area generally known as the Brevard Road Area.

Mayor Michalove opened the public hearing at 5:26 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Patty Tallerday, Senior Planner, said N. C. Gen. Stat. sec. 160A requires the City to hold a public hearing relative to the proposed annexation at least ten (10) days prior to the adoption of an ordinance for the annexation.

She said the area proposed to be annexed is developed for urban purposes as defined by the N. C. General Statutes and meets the state guidelines for annexation.

By the use of a map, she described the boundaries proposed to be annexed. She said upon the effective date of

annexation the City will provide to the area the same level of City services as is provided presently in the City of Asheville with the exception of water and sewer services which will be in place within two (2) years.

She explained the Plan for the Extension of Major Municipal Services in the Brevard Road Area and stated that copies of the plan for services were available at the public hearing, as well as at the City Clerk's Office.

Debra Bridges asked staff questions relative to the services that would be provided such as where street lights would be installed and speed limits on the streets.

Paul Martin Jones, Brevard Road, spoke in opposition to the annexation.

Ray Bridges, 683 Brevard Road, spoke in opposition to the annexation stating that the annexation may be legal but it is not right.

Brett Williams, 673 Brevard Road, spoke in opposition stating that the residents would not receive any benefits from the City.

A resident from 26 Dogwood Road also spoke in opposition.

Mayor Michalove closed the public hearing at 6:00 p.m.

Mayor Michalove said the first reading of the ordinance would be on May 7, 1991 and the second and third reading would likely be on May 21, 1991.

C. Continuation of a public hearing relative to closing an unnamed alley running west off Oaklawn Avenue.

Resolution No. 91-58 - Resolution to close an unnamed alley running west off Oaklawn Avenue.

Mayor Michalove said this public hearing was continued from the April 19, 1991 meeting.

Mala Rao, Planner, said this matter was taken before the Board of Adjustment in October, 1990 and the Grace Episcopal Church was granted a 30' variance with a buffer along the street in order for the church to construct a parking lot. She said since the church had not started their project within six (6) months of the variance it is now necessary for the church to go back before the Board of Adjustment. She said this matter is scheduled to be heard again by the Board of Adjustment on May 6, 1991.

Bill Mull again opposed the closing of the unnamed alley stating that the demolition of the building on the existing

church parking lot will diminish his view and cause his property values to decrease. He requested that this matter be continued until after the Board of Adjustment meeting on May 6, 1991.

At the request of Mayor Michalove, the City Attorney said that the question before the Council is whether the closing of the unnamed alley denies reasonable access to any properties in the vicinity.

Larry Harris, with the Grace Episcopal Church, said the closing of the alley is necessary for the planting of a buffer strip. He said the closing does not deprive anyone access to their property.

Mayor Michalove closed the public hearing at 6:15 p.m.

Mayor Michalove said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Ellison, seconded by Councilman Frank, Resolution No. 91-58 was unanimously adopted.

Resolution Book No. 18 - Page 387 - 388

Councilman Ellison commented that Mr. Mull has another avenue to protect his interest in this closing and the actions planned by the church.

III. OLD BUSINESS:

A. Ordinance No. 1907 - Ordinance relative to annexation of area known as Haw Creek II Area.

The City Manager said the staff met with residents in Sondley Estates relative to the improvements planned for the streets in the area. He said the residents also commented on the timing of the annexation as far as tax bills are concerned. He said the residents could decide to go through a petition assessment process for all the improvements and the residents would be billed for the improvements over a five (5) year period at 8% interest which might help on their tax bills.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Bratton moved for the adoption of Ordinance No. 1907. This motion was seconded by Councilman Frank.

On a roll call vote of 7-0, Ordinance No. 1907 passed on

first reading.

Mayor Michalove said the second and likely the third reading of the ordinance would be held on May 7, 1991.

B. Ordinance No. 1904 - Second reading of an ordinance amending Section 25.5 of the Code of Ordinances of the City of Asheville (Selling and Entertaining on Streets and Sidewalks)

The City Manager said since the first reading of the ordinance an amendment is being proposed to include Biltmore Village area. He said since the West Asheville District can not be readily determined the ordinance could be amended at a later date to include the West Asheville area.

Councilman Price moved to amend Ordinance No. 1904 to include the Biltmore Village area. This motion was seconded by Councilman Frank and carried unanimously.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

On a roll call vote of 7-0, Ordinance No. 1904, as amended, passed on second reading.

C. Ordinance No. 1906 - Second reading of an ordinance relative to amending Zoning Ordinance relative to penalty provisions.

The City Attorney said since the first reading of the ordinance several technical changes have been made in order to conform with state statutes.

Councilman Ellison moved to amend Ordinance No. 1906 to include the technical changes as suggested by the City Attorney. This motion was seconded by Vice-Mayor Moore and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1906, as amended, passed on second reading.

Councilman Ellison moved to suspend the rules and proceed to the third reading of Ordinance No. 1906. This motion was seconded by Vice-Mayor Moore and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1906, as amended, passed on third and final reading.

D. Ordinance No. 1905 - Second reading of an ordinance directing the Director of Building Inspection Division to demolish the dwelling located at 143 Blanton Street.

Resolution No. 91-68 - Resolution authorizing the Housing Authority to exercise eminent domain for the dwelling at 143 Blanton Street

At the request of the City Manager, Councilman Ellison moved to stop action of Ordinance No. 1905 and to adopt a resolution authorizing the Housing Authority to exercise eminent domain for the dwelling at 143 Blanton in order to pursue acquisition of the house. This motion was seconded by Vice-Mayor Moore and carried unanimously.

Resolution Book No. 18 - Page ~~403~~ 402-A

E. Subdivision Plat - Beaver Lake Heights

Don Sherrill, Urban Planner with the Planning Dept., said Beaver Lake Heights is a proposed six (6) lot residential subdivision to be located off Greenleaf Circle in north Asheville. The entire site is 3.5 acres in area and the proposed lots range in size from .3 acre to .9 acre. The zoning for the parcel is R-1 single family residential. The subdivision will require the construction of a roadway and cul-de-sac to serve the six lots. The roadway will be required to meet City standards. MSD has approved the allocation for sanitary sewer. The plans for the sewer line construction and the installation of a pump station will need to be approved through MSD. The project had been denied water service due to low water volume and low pressure. Fire protection is marginal from the City system. The developer wishes to install a private water system and intends to sprinkler all the houses within the subdivision. A City Street Cut Permit will be required for the proposed roadway off Greenleaf Circle.

The preliminary plat had been brought before the Asheville Planning and Zoning Commission on March 6, 1991 and on April 3, 1991. The Planning and Zoning Commission tabled the proposal at each of these meetings. Section 26-3 of the City's Subdivision Regulations states that: "should the Planning Commission fail to take action on the plat within forty-five (45) days the subdivider may seek preliminary approval at the City Council's next regular meeting."

Since the last City Council meeting when the Beaver Lake Heights Subdivision was discussed, the Water Department

reevaluated the water flow information and will allow the subdivision to connect to the public water system. The preliminary plat for Beaver Lake Heights was approved by the Asheville Planning and Zoning Commission, at their meeting on April 17, 1991, with the following contingencies:

1) The proposed street be constructed to City standards and be dedicated to the City once completed.

2) The developer installs a 6 inch water line from the closest fire hydrant on Greenleaf Circle to the entrance of the subdivision and install a fire hydrant to City specifications and the water lines within the subdivision shall meet all state and local requirements.

3) The project shall comply with the City's Erosion Control Ordinance.

The developer requests the appeal of this project to the City Council and he requests that the project be granted a variance from the requirements of Section 26-9 (c) that requires subdivisions located within 200' of available City water connect to the City system. The developer intends to drill a well and install a private water system.

A discussion was held relative to the developer installing a private water system and providing sprinklers for each dwelling.

Upon inquiry of Council, the City Manager said the developer would be responsible for repaving the streets when he installs a new water line. He said the new water line and the repaving of the portions of the street that were cut would have to meet city specifications.

The City Manager said this subdivision was thoroughly reviewed by staff and it is has been determined that if a new 6" water line is installed along Merrimon Avenue from Midland Drive to Glen Falls Road, served by the Beaverdam Pumping Station, there will be more water available for everyone in this area. He said this project would have to be approved by the Water Authority and the State.

Vice-Mayor Moore said he would oppose a private water system because he felt this would create problems in the future for those purchasing the homes.

Larry Buckner, developer, said he had spent lots of money engineering a private water system because of the many delays in his project and due to the fact that he was told on several occasions that the project could not be approved because there was no water in the area.

He said now that the Water Department is saying there is water in the area he would agree to extend 200' of 6" line to tie into the city's available water system and to put sprinklers in each dwelling. However, his request is to be allowed to install a private water system.

Wayne Stanko, 26 Greenleaf Circle, said the property in question has gone undeveloped for thirty years. He requested that the City make sure that any development in the area meets all the requirements.

E. C. Bradley, 54 Greenleaf Circle, said the residents are not opposed to the development. He said they are concerned because the area currently has very low water pressure. He said the city needs to correct this problem for the area residents.

A resident of 22 Greenleaf Circle said they were concerned that if the developer puts in a private water system it would have an effect on the existing lake.

Steve Buckner, 58 Sunset Drive, spoke in support of the project stating that many private water systems have been installed and have proven to be successful.

Barbara Whitaker, 32 Pine Tree Circle, said she was not against the development. She said she did think the developer should use city water and sewer. She said she was also concerned about the effect a private water system would have on the existing lake.

Mike Plemmons with the Council of Independent Business Owners said the entire process for this development has been "out of hand". He said first the developer was told he could not have water - now he is told he could have water - then he was told by the Planning and Zoning staff to put in a private water system - now he is told he can not have a private water system. He said this process needs to be corrected.

Upon inquiry of Mayor Michalove, the City Manager said the proposed 6" water line to go along Merrimon Avenue would have to be approved by the Water Authority. He said if the private water system is installed and this has an effect on the existing lake the courts would have

to settle this matter. He said the county and the state would have to approve a private water system.

The City Manager commented that for the developer to install 200' of 6" water line would not work because he would have to tie into a 2" existing water line and the state will not allow 1000' of 2" water line. He said, in addition, this would not provide adequate fire protection.

Mayor Michalove noted that if the developer does install a new line this does not mean that he would be resurfacing the entire road.

After discussion, Councilman Price moved that the Beaver Lake Heights Subdivision be approved subject to:

1) The proposed street be constructed to City standards and be dedicated to the City once completed.

2) The developer installs a 6 inch water line for 200' to tie into the existing city water system and that each individual dwelling be installed with sprinklers and that fire hydrant be installed to city specifications and the water lines within the subdivision meet all state and local requirements.

3) The project shall comply with the City's Erosion Control Ordinance.

This motion was seconded by Councilman Estes.

Councilman Bratton said the City Council should not have to be dealing with this matter since the Water Authority and the State has to approve the water system.

After discussion, Councilman Ellison moved to amend Councilman Price's motion to approve the Beaver Lake Heights Subdivision subject to:

1) The proposed street be constructed to City standards and be dedicated to the City once completed.

2) The developer installs a 6 inch water line for 900' to tie into the existing city water system and that the developer and the Water Authority work out an agreement whereby the cost of the water line is shared and the water lines within the subdivision meet all state and local requirements.

3) The project shall comply with the City's Erosion Control Ordinance.

Councilman Price and Councilman Estes consented to the amendment.

On a voice vote of 3-4, Councilman Price's motion failed with Councilman Bratton, Councilman Frank, Vice-Mayor Moore and Mayor Michalove voting "no".

Vice-Mayor Moore made a substitute motion to approve the Beaver Lake Heights Subdivision as recommended by the Planning and Zoning Commission. This motion died for the lack of a second.

Mayor Michalove then made a substitute motion to approve the Beaver Lake Heights Subdivision subject to:

1) The proposed street be constructed to City standards and be dedicated to the City once completed.

2) The developer installs a 6 inch water line for 900' to tie into the existing city water system and that the developer and the Water Authority work out an agreement whereby the cost of the water line is shared and the water lines within the subdivision meet all state and local requirements.

3) That approval is contingent upon the Water Authority approving and moving ahead with the installation of the 6" water line along Merrimon Avenue to increase the pressure and quantity of the water in the area.

4) The project shall comply with the City's Erosion Control Ordinance.

This motion was seconded by Councilman Ellison and carried unanimously.

IV. NEW BUSINESS:

A. Ordinance No. 1908 - Budget ordinance amendment to appropriate funds for the Rental Rehabilitation Program.

The City Manager said the City has received funding approval of an additional $136,000 for the 1989 Rental Rehabilitation Program. This budget ordinance will appropriate the funds into the City Budget. The Program is subcontracted with the Housing Authority for administration. Administrative cost is provided from CDBG.

Mayor Michalove said members of Council were previously

furnished copies of the ordinance and it will not be read in its entirety.

Councilman Ellison moved for the adoption of Ordinance No. 1908. This motion was seconded by Councilman Frank.

On a roll call vote of 7-0, Ordinance No. 1908 passed on first and final reading.

Ordinance Book No. 12 - Page 350

B. Semi-Annual Affirmative Action Report.

Pam McGrayne, Personnel Director, gave an analysis of the Affirmative Action Semi-Annual Report. A copy of the report is on file in the Office of City Clerk.

C. Resolution No. 91-59 - Resolution relative to state revenues for local governments.

Mayor Michalove said this resolution requests that the General Assembly rescind House Bill 2377 and restore the automatic statutory distribution of important local revenues, thereby eliminating the necessity of the General Assembly to make an annual appropriation to return these local revenues to local governments.

Mayor Michalove said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Ellison, seconded by Councilman Frank, Resolution No. 91-59 was unanimously adopted.

Resolution Book No. 18 - Page 389

D. Resolution No. 91-61 - Resolution authorizing Mayor to execute an easement in favor of Carolina Power and Light Company for property at the Asheville Regional Airport.

The City Manager said this resolution will authorize the Mayor to execute an easement in favor of Carolina Power and Light Company in order to get electric service to the new Hertz Maintenance Facility at the Asheville Regional Airport.

Mayor Michalove said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Ellison, seconded by Councilman Price, Resolution No. 91-61 was unanimously

adopted.

Resolution Book No. 18 - Page 391

E. Resolution No. 91-62 - Resolution authorizing the Mayor and the City Attorney to execute an affirmation of subordination for the Pack Plaza Project.

The City Attorney said this resolution will authorize the Mayor and City Attorney, as trustee under certain deeds of trust given to the City of Asheville for the Pack Plaza Project, to execute an Affirmation of Subordination wherein the City of Asheville affirms the subordination of its deeds of trust on the Pack Plaza Project to the first mortgage loan documents for the Pack Plaza Project.

Mayor Michalove said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Bratton, seconded by Vice-Mayor Moore, Resolution No. 91-62 was unanimously adopted.

Resolution Book No. 18 - Page 392

F. Resolution NO. 91-63 - Resolution authorizing a CDBG loan to 58 Broadway Corporation and authorizing the Mayor to execute all documents necessary in connection therewith.

The City Attorney said the CDBG Loan will be used for construction cost involved in the renovation of the building located at 58 Broadway. The renovation will create 5 loft apartments and 1 commercial space to be used as an ownership co-op for low-moderate income persons.

Mayor Michalove said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Vice-Mayor Moore, seconded by Councilman Ellison, Resolution No. 91-63 was unanimously adopted.

Resolution Book No. 18 - Page 393

V. CONSENT:

A. Scheduling of public hearing relative to amending the Zoning Ordinance (Group Development Procedures) for May 7, 1991.

SUMMARY: The Asheville Planning and Zoning Commission on April 3, 1991 reviewed and recommended approval of an amendment to Chapter 30 of the City's Code of Ordinances. The proposed amendment consolidates requirements for group development review in one section and revises the section dealing with the reporting of P&Z's recommendation to City Council.

B. Resolution No. 91-64 - Resolution directing the City Manager of the City of Asheville to initiate a recyclable materials recycling program by July 1, 1991, and execute contracts and related documents necessary to implement the program.

SUMMARY: This resolution recognizes the City's intention to open a recycling drop-off center. It also addresses this intention in relationship to Senate Bill 111 dictates.

Resolution Book No. 18 - Page 394

C. Resolution No. 91-65 - Resolution supporting recycling and accepting the 1991 Earth Day challenge to United States Cities and Towns for the City of Asheville, North Carolina.

SUMMARY: This resolution sets forth the City Council's acceptance of the 1991 Earth Day Challenge to "Buy Recycled."

Resolution Book No. 18 - Page 395 - 396

D. Resolution No. 91-66 - Resolution authorizing the Mayor to execute on behalf of the City of Asheville a modified grant agreement from the North Carolina Department of Transportation - Project No. 9.9584894 for the Asheville Regional Airport Authority.

SUMMARY: North Carolina Department of Transportation awarded a grant in the amount of $401,967 in State Aid to the Asheville Regional Airport Authority for airport terminal expansion (baggage claim area; rental car area; and administrative offices) in the amount of $401,967.

It has now been determined and agreed that an additional $300,000 is needed due to construction and relocation of utility lines to be greater than originally estimated.

The City of Asheville and the County of

Buncombe are cosponsors of the grant agreement.

Resolution Book No. 18 - Page 397

E. Resolution No. 91-67 - Resolution appointing members to the Citizens/Police Advisory Committee.

SUMMARY: The Citizens/Police Advisory Committee was appointed by City Council in August, 1989, to study the relationship between the community as a whole, the black community in particular, and the police department.

The final report of the committee recommended that the City Council appoint a permanent Citizens/Police Advisory Panel.

Resolution Book No. 18 - Page 398 - 400

F. Resolution No. 91-68 - Resolution of support for the interchange at I-40 and US 25A (Sweeten Creek Road) and the concurrent widening of US 25A (Sweeten Creek Road).

SUMMARY: David Brown, Division 13 Board of Transportation representative has requested letters and resolutions of support for Project I-100 (Interchange at I-40 and US 25A).

Resolution Book No. 18 - Page 401 - 402

Upon motion of Councilman Bratton, seconded by Vice-Mayor Moore, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

A. Housing/Community Development Committee Meeting

Councilman Ellison said the Housing Authority/Community Development Committee will meet again on Monday, April 29, 1991 at 8:00 a.m. to consider 22 applications for CDBG funds.

rB. Report of Group Development Actions by Planning and Zoning Commission

Don Sherrill from the Planning Department, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. He said in accordance with the new procedure, the action of the Commission shall be final unless the City Council determines

at their meeting to schedule a public hearing on the matter. He said the following action was taken by the Planning and Zoning Commission at their meeting on April 17, 1991.

r(1) Riverside Drive Warehouse

Mr. Sherrill said the Asheville Planning and Zoning Commission on April 17, 1991, reviewed and approved the site plan of Riverside Drive Warehouse subject to two (2) contingencies: 1) The developer reduce the driveway width for the loading area to 24 feet and rearrange the paving to allow trucks to back into the loading berth; 2) Raise the Finished Floor Elevation of the building to be one (1) foot above regulatory flood elevation at the south end of the property. Council accepted the recommendation of the Planning and Zoning Commission relative to the site plan of Riverside Drive Warehouse.

C. April 29, 1991 and April 30, 1991

Mayor Michalove said Council would be meeting on Monday, April 29, 1991 at 2:00 p.m. for a work session to hear a report relative to fees and charges. He said since members of Council will be in Raleigh on Tuesday, April 30, 1991 the regular scheduled meeting has been cancelled.

Claims - L. D. Thompson (Water) - Allen Ballard (Water) - Billie Gorney (Sanitation) - Becky Beecher (Parks) - Cleophas Hardaway (Streets) - Mary Sulkowsky (Parks) - Michael M. Carson (Streets) - Macy Mintz (Streets) - Sean Blake (Water) - Deborah Schilla (Wastewater)

The City Manager said claims were received from L. D. Thompson - Allen Ballard - Billie Gorney - Becky Beecher - Cleophas Hardaway - Mary Sulkowsky - Michael M. Carson (Streets) - Macy Mintz (Streets) - Sean Blake (Water) - Deborah Schilla (Wastewater).

Mayor Michalove referred the claims to the City Attorney for investigation and recommendation.

Lawsuits - Michael Maurice Carson (Alleged Personal Injury)

The City Manager said on April 4, 1991 the City was served with a lawsuit involving Michael Maurice Carson - alleged personal injury due to obstructions at intersection.

Mayor Michalove referred the lawsuit to the City Attorney for investigation and recommendation.

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 8:40 p.m.

I.M. Michalove
MAYOR

William F. Malcolm
CITY CLERK

Tuesday - April 30, 1991 - 4:00 P.M.

Regular Meeting

NO MEETING

MEETING CANCELLED - COUNCIL MEMBERS IN RALEIGH

W. M. Nichols
MAYOR

William A. Malcott
CITY CLERK

Tuesday - May 7, 1991 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Councilmen Mary Lloyd Frank, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott

Absent: Vice-Mayor William G. Moore and Councilman Norma T. Price

INVOCATION

The invocation was given by Councilman Frank.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the minutes of the April 23, 1991 meeting as submitted.

I. PROCLAMATION

A. PROCLAMATION - "TRANSIT APPRECIATION WEEK" MAY 13 - 15, 1991 - "TRANSIT APPRECIATION DAY" MAY 15, 1991

Mayor Michalove proclaimed May 13 - 15, 1991 as "Transit Appreciation Week" and May 15, 1991 as "Transit Appreciation Day" and presented a copy of the proclamation to Wanda Winslow, Chairman of the Asheville Transit Authority.

B. PROCLAMATION - "HERITAGE WEEK" - MAY 12 - 18, 1991

Mayor Michalove proclaimed May 12 - 18, 1991 as "Heritage Week" and presented a copy of the proclamation to Jeanne Warner, President of the Preservation Society of Asheville and Buncombe County.

C. PROCLAMATION - "LAW ENFORCEMENT OFFICERS WEEK" MAY 13 - 17, 1991 - "PEACE OFFICERS MEMORIAL DAY" MAY 15, 1991

Mayor Michalove proclaimed the week of May 13 - 17, 1991 as "Law Enforcement Officers Week" and May 15, 1991 as "Peace Officers Memorial Day" and presented a copy to Chief Gerald Beavers.

D. PROCLAMATION - "PUBLIC EMPLOYEES APPRECIATION WEEK"

Mayor Michalove proclaimed the week of May 6- 10, 1991 as "Public Service Employee Recognition Week" and presented a copy to Pam McGrayne, Personnel Director for the City of Asheville.

E. RESOLUTION NO. 91-69 - RESOLUTION OF APPRECIATION FOR RETIREE, CHARLOTTE TELL

Mayor Michalove recognized Charlotte Tell who is retiring from the City of Asheville after 19 years of service as City Accountant. He said in addition to improving the financial management and reporting processes of the City, her concern, interest and sensitivity for others have prompted her to serve the City in many capacities which have encouraged and inspired her fellow employees and endeared her to many people.

Upon motion of Councilman Frank, seconded by Councilman Bratton, Resolution No. 91-69 was unanimously adopted.

Mayor Michalove presented the resolution to Charlotte Tell.

Resolution Book No. 18 - Page 403

F. QUARTERLY BEST AWARD PRESENTATION - GLENDA TRANTHAM

The City Manager said Glenda Trantham from the Personnel Department has been chosen as the City's B*E*S*T employee for Winter Quarter 1991. Glenda is the City's Employee Benefits Specialist. Her responsibilities include enrolling new employees in their benefits, advising them about retirement options and helping employees and their families when a death occurs.

Although counseling employees about death benefits is not easy for anyone, Glenda provides competent and caring help. The compassion and concern Glenda shows towards employees and their families and the extra things she does spares the family additional stress and confusion. One employee recently described Glenda as a "Godsend."

The City Manager presented Glenda Trantham with a "Quarterly B*E*S*T Winner Award.

G. PRESENTATION BY MARCAL PAPER MILLS

RESOLUTION NO. 91-70 - RESOLUTION OF APPRECIATION TO INGLES SUPERMARKETS AND MARCAL PAPER MILLS FOR DONATION TO TREE PROGRAM

Ray Kisiah, Director of Parks, Recreation, and Public Facilities, said Marcal Paper Products has a national program of donating funds for tree planting to certain cities throughout the nation who have been formally designated as a Tree City, USA. Because of Asheville's efforts in developing a comprehensive tree program, Marcal Paper Company wished to support this effort and, for the third year, is making a substantial contribution to the City of Asheville this year in the amount of $1,150. Ingles Supermarkets distributes the Marcal Paper Products and has submitted the name of the City of Asheville as a recipient of this grant program.

Eddie Glen with Marcal Paper Company and Ken Jarvis with Ingles Supermarkets presented the $1,150 check to the City of Asheville.

Mayor Michalove read the resolution of appreciation.

Upon motion of Councilman Ellison, seconded by Councilman Frank, Resolution No. 91-70 was unanimously adopted.

Resolution Book No. 18 - Page 404

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO AMENDING EXTRATERRITORIAL ZONING JURISDICTION - WEST AREA.

Mayor Michalove opened the public hearing at 4:21 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, from the Planning Department, said the Asheville Planning and Zoning Commission has recommended that the area specified as the "West Area" be included in the City's extraterritorial zoning jurisdiction and that specific zoning classifications be assigned to the property included in the proposal. The action specified was acted upon at a special meeting held on March 6, 1991.

He said several public meetings were held with neighborhood property/business owners and neighborhood residents to discuss the issues involved. He said 729

notices were mailed to property owners that would be affected by the extraterritorial zoning jurisdiction.

By the use of map, Mr. Emrick reviewed the boundaries to be included in the jurisdiction, as well as the proposed zoning designations for the area.

Mike Moser, Chairman of the Planning and Zoning Commission, outlined the process that took place in recommending the extraterritorial zoning district.

Jeff Fischback, 47 English Drive, Candler, North Carolina read a prepared statement basically supporting the proposed zoning, particularly referring to a tract bordered by Monte Vista Road and Holbrook Road remaining zoned Residential as recommended by the Planning and Zoning Commission.

Gary Tweed, 165 Monte Vista Road, Candler, North Carolina said he also supported the zoning as recommended by the Planning and Zoning Commission. He said the residential zoning along Monte Vista Road and Holbrook Road would protect the residential area.

Phil Carson said in his opinion the tract bordered by Monte Vista Road and Holbrook Road should be zoned Light Industrial. He said the proposed is close to the interstates and is typically industrial property. He said any development of the property would require a group development approval from the Planning and Zoning Commission and the City Council. He said this process would protect the surrounding residential properties because the Planning and Zoning Commission and the City Council could impose contingencies upon any development, including buffering.

Upon inquiry of Mayor Michalove, Mike Moser said he would not have any problems with zoning the property either residential or light industrial but would stand behind Planning and Zoning Commission's recommendation. He said the existing easements along the power lines in this area would create a natural buffer boundary.

Mayor Michalove closed the public hearing at 5:04 p.m.

Mayor Michalove said the first reading of the ordinance would be held in two weeks in order to give members of Council an opportunity to visit the areas in question.

B. PUBLIC HEARING RELATIVE TO HILLSIDE DEVELOPMENT REGULATIONS.

ORDINANCE NO. 1909 - ORDINANCE AMENDING CHAPTERS 26 AND 30 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE (HILLSIDE DEVELOPMENT REQUIREMENTS)

Mayor Michalove opened the public hearing at 5:05 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Gerald Green, Senior Planner, said after reviewing site plans for projects subject to the Hillside Development Ordinance regulations, the Asheville Planning and Zoning Commission directed staff to develop amended wording which would require developers to distribute graded areas throughout the project site. Staff was also directed to make the regulations applicable to subdivision development. The proposed amendments call for graded areas to be distributed throughout the site rather than permitting one portion of the site to be completely graded. The proposed amendment extends the Hillside Development regulations to subdivision development, but not to construction on individual lots. The Planning and Zoning Commission voted to recommend approval of the amendments to the ordinance.

George Jenson - Jenson Engineers Associates, said uniform grading of developments on hillsides could disturb more of the total site area and have a bigger impact on the land. He said the City should let the developers decide how best to use the property.

Richard Roberts, Builder, Home Builders Association, said the street grades would have an impact on hillside regulations.

Mayor Michalove closed the public hearing at 5:26 p.m.

Councilman Ellison suggested that the ordinance be amended to include language that the graded areas be reasonably distributed throughout the project site "where feasible."

Mayor Michalove said since this language needs to be specific he would suggest that the ordinance be amended prior to second reading giving an opportunity for the ordinance to be amended with specific language. He suggested that Council proceed with the first reading of the ordinance.

Councilman Frank moved for the adoption of Ordinance No. 1909. This motion was seconded by Councilman Ellison.

On a roll call vote of 5-0, Ordinance No. 1909 passed on first reading.

C. PUBLIC HEARING RELATIVE TO STREET GRADES

Mayor Michalove opened the public hearing at 5:35 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Gerald Green, Senior Planner, said at the February 6 meeting, the Asheville Planning and Zoning Commission recommended approval of an amendment to Chapters 26 and 30 of the City's Code of Ordinances. The Commission has considered several proposed amendments over the past few months. Some of the proposed amendments were prepared by staff of the Fire, Public Works, and Planning Department and the City Manager's office. These amendments were revised based upon meetings with contractors, engineers, and other interest groups. In addition to the amendments prepared by the staff, the Planning and Zoning Commission developed proposed amendments, including the one recommended for adoption. The recommended ordinance amendment has the following characteristics: A maximum grade of 15% is established for subdivision and group development streets; and The Board of Adjustment is authorized to grant variances permitting street grades in excess of 15%. No limit is established for the granting of variances, nor are there standards to guide the Board of Adjustment in granting variances.

Mr. Green said the staff' s recommendation is a maximum grade of 12% with variances granted by City Council of up to 18% . He said this recommendation also specifies standards for granting the variances.

Mike Moser, Chairman of the Planning and Zoning Commission, said the Commission disagrees with the staff recommendations in that Planning and Zoning has always approved a street grade of up to 18%. He said the Commission also felt the staff's recommendation was too complicated. He said the Commission's recommendations also is in keeping with NC DOT standards. He said the Commission discussed all the recommendations thoroughly. He said developers and builders need specific rules to follow with minimum standards. He said in many instances these rules must be decided on a case by case basis.

The City Attorney commented that the new provisions for street grades, when adopted, will apply to subdivisions and group developments.

Charles Penny, Assistant City Manager, said the staff was attempting to provide guidelines for the issuance of variances and the engineers helped develop the guidelines. He supported staff's recommendation of a maximum 12% street grade.

Tom Borris, with the Greater Asheville Homeowner's Association, said they opposed the staff recommendation but did support the Planning and Zoning Commission's recommendation.

Ted Orr of 34 N. Ann Street said he also supported the Planning and Zoning Commission's recommendation.

Bob Mayhew, local developer, supported Planning and Zoning Commission's recommendation. He said since we live in the mountains if you limit street grades to 12% everyone will be seeking variances. He said the majority of the mountainous land is more than 12% grade.

Bob Selby asked the Council not put any more restrictions on developers/builders that would add more expense.

Mike Plemmons, with the Council of Independent Business Owners, said his organization endorses the Planning and Zoning Commission's recommendation.

George Jensen, Engineer, presented data from the American LaFrance Company, which indicated that fire trucks can handle street grades in excess of 12%.

Mayor Michalove closed the public hearing at 6:25 p.m.

After a lengthy discussion, Councilman Frank moved to adopt an ordinance that would implement the Planning staff's recommendation. This motion was seconded by Councilman Bratton. This vote failed on a voice vote of 3-2 with Councilman Bratton and Frank voting "aye".

Councilman Ellison moved to adopt an ordinance that would implement the Planning and Zoning Commission's recommendation with a limit on the variance that the Board of Adjustment could allow of 18% street grade. This motion was seconded by Councilman Estes. This vote failed on a voice vote of 3-2 with Councilman Bratton and Frank voting "no".

Councilman Ellison moved to reconsider this ordinance at a later date when all members of Council are present. This motion was seconded by Councilman Bratton and carried unanimously.

D. PUBLIC HEARING RELATIVE TO AMENDING GROUP DEVELOPMENT PROCEDURES

ORDINANCE NO. 1910 - ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CIT OF ASHEVILLE (ARTICLES 6 AND 11 - GROUP DEVELOPMENTS)

Mayor Michalove opened the public hearing at 6:35 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Gerald Green, Senior Planner, said at their April 3, 1991 meeting, the Asheville Planning and Zoning Commission recommended approval of an amendment to Chapter 30 of the City's Code of Ordinances. The proposed amendment moves Section 30-11-4, which sets forth the procedure for group development application and review to Article 6 of Chapter 30. Other requirements and stipulations regarding group development are currently found in Article 6. The wording of the proposed Section 30-6-2(F) has been revised so that the requirement for the reporting of the Planning and Zoning Commission's recommendation to City Council does not conflict with City Council's new meeting schedule.

Mayor Michalove closed the public hearing at 6:37 p.m.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Ellison moved for the adoption of Ordinance No. 1910. This motion was seconded by Councilman Frank.

On a roll call vote of 5-0, Ordinance No. 1910 passed on first reading.

E. PUBLIC HEARING RELATIVE TO PUBLIC WORKS FACILITIES INSTALLMENT PURCHASE CONTRACT

RESOLUTION NO. 91-71 - RESOLUTION OF THE CITY OF ASHEVILLE, NORTH CAROLINA APPROVING AN INSTALLMENT PURCHASE CONTRACT AND RELATED MATTERS

Mayor Michalove opened the public hearing at 6:38 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

The City Manager said this public hearing and the adoption of the resolution is required by the bond counsel for the financing of the Public Works Facility Project.

He said the method of financing will be Certificates of Participation and the Asheville-Buncombe Development Corporation has agreed to participate in the financing and will be issuing the Certificates of Participation through the underwriter, A. G. Edwards & Son. He said the City will not be pledging any revenues that a Deed of Trust on the Public Works Facilities)Land and Building) will be given as security. He said the award of the contract and the sale of the bonds will coincide since the project is on schedule.

Councilman Bratton, liaison for the Council on the Asheville-Buncombe Development Council, said the Council unanimously approved participation in the financing of the Public Works Facilities Project.

At the request of the Mayor, the City Manager said the City started the Pubic Works Facilities project in 1984 by setting funds aside for the project. He said this is not a new project that the city administration has been working on the project since 1984. He said this is a very much needed facility to provide a safer, better, and more efficient facility for Public Works. He said the Administration Offices will be housed along with the Public Works Operations.

Bob Mayhew, a local developer, said with the economy in a state of decline and the state consistently cutting local funds he felt the timing of spending funds for such a facility is ill timed. He said he felt the project is too expensive and the City should wait until the economy is better.

Mayor Michalove closed the public hearing at 6:48 p.m.

Mayor Michalove said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Bratton, seconded by Councilman Ellison, Resolution No. 91-71 was unanimously adopted.

III. OLD BUSINESS:

A. Ordinance No. 1907 - Second reading of an ordinance to extend the Corporate Limits of the City of Asheville to an area known as the Haw Creek II Area.

The City Manager said since the first reading of the ordinance the staff has met with homeowners in the Haw Creek II Area and resolved several questions they expressed during the public hearing.

He said a fire contract with the Haw Creek Volunteer Fire Department has been completely negotiated and all parties have agreed to the terms. He said homeowners are now satisfied with the revised cost of proposed street improvements. He said the residents have requested that the annexation ordinance be effective one year from the date of adoption. He said the general statutes allow the City to adopt an ordinance and make it effective no sooner than 40 days and no later than 400 days after adoption. He said a delay of one year would not be a problem from the City's standpoint.

At the request of the City Attorney, Councilman Ellison moved to amend Ordinance No. 1907 to provide for an effective date of June 30, 1992 and for the deletion of one lot (Ross Lot) as indicated in the description of the property to be annexed. This motion was seconded by Councilman Frank and carried unanimously.

On a roll call vote of 5-0, Ordinance No. 1907 passed on second reading.

Mayor Michalove said the third reading of the ordinance will be held on June 4, 1991.

B. Ordinance No. 1904 - Third reading of an ordinance amending Section 25-5 of the Code of Ordinances of the City of Asheville (Selling and Entertaining on Streets and Sidewalks)

Mayor Michalove said the ordinance was previously read on second reading and will not be reread in its entirety.

On a roll call vote of 5-0, Ordinance No. 1904 passed on third and final reading.

D. CONSIDERATION OF CIVIL SERVICE RULE CONCERNING LIGHT DUTY ASSIGNMENT.

RESOLUTION NO. 91-72 - RESOLUTION APPROVING RULE ADOPTED BY CIVIL SERVICE BOARD REGARDING REASSIGNMENT OF EMPLOYEES

The City Attorney said, at Councilman Ellison's suggestion, the rule as adopted by the Civil Service Board, has been amended to include the following language "No such assignment shall be made, however, until the Civil Service Board has made a determination that the employee is vocationally and physically suited for the position to which he/she is to be assigned."

Pam McGrayne, Personnel Director, said she had checked with other cities and found that Charlotte and Raleigh do not have a policy governing reassignment of employees. She said they handle each case separately and at times encourage disability retirement.

Mayor Michalove said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Ellison, seconded by Councilman Bratton, Resolution No. 91-72 was unanimously adopted.

Resolution Book No. 18 - Page 411

IV. NEW BUSINESS:

A. 2010 Semi Annual Report.

Patty Tallerday, Acting Planning Director, highlighted the 2010 Semi-Annual Report. She said monitoring of the 2010 Plan is much better and the report shows progress.

A copy of the report is on file in the Office of the City Clerk.

B. Review of Windswept Acres Subdivision.

Don Sherrill, Urban Planner, said Windswept Acres is a ten (10) lot residential subdivision located at the intersection of Alexander Road and Windswept Drive. The site is 10.6 acres in size. The lots average one acre in size. The site lies within the R-3 and Office-Institutional Zoning Districts. No new roads were required for this subdivision as all the lots abut existing roadways. All services are available.

He said at the Planning and Zoning Commission meeting of May 2, 1991, the Planning and Zoning Commission approved the preliminary plat for the Windswept Acres Subdivision with one contingency:

1. The developer must work with the City of Asheville to acquire a suitable easement for the sewer line serving the proposed subdivision from Windswept Views Condos to Carroll Avenue.

He said according to the City Legal Staff this contingency has been met.

Councilman Ellison moved to approve the plat for the Windswept Acres Subdivision located at the intersection of Alexander Road and Windswept Drive. This motion was seconded by Councilman Estes and carried unanimously.

C. ORDINANCE NO. 1911 - ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO AN AREA KNOWN AS THE BREVARD ROAD AREA.

Mayor Michalove said a public hearing was held relative to the annexation of the Brevard Road Area on April 23, 1991. He said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Frank moved for the adoption of Ordinance No. 1911. This motion was seconded by Councilman Bratton.

On a roll call vote of 5-0, Ordinance No. 1911 passed on first reading.

D. ORDINANCE NO. 1912 - ORDINANCE AMENDING ORDINANCE NO. 586, SECTION 7, SERVICE AREA OF THE ASHEVILLE TRANSIT AUTHORITY

Mayor Michalove said for many years, the Asheville Transit Authority has discussed serving the public transit needs of citizens beyond the City Limits of Asheville. The ATA has studied several areas for service and desires to amend the current ordinance to allow the public transportation system to be extended; where such extensions best meet the goals and objectives of the ATA and City Council.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Bratton moved for the adoption of Ordinance No. 1912. This motion was seconded by Councilman Frank.

On a roll call vote of 5-0, Ordinance No. 1912 passed on first reading.

Councilman Ellison moved to suspend the rules and proceed to the second reading of Ordinance No. 1912. This motion was seconded by Councilman Frank and carried unanimously.

On a roll call vote of 5-0, Ordinance No. 1912 passed on second reading.

E. Ordinance No. 1913 - BUDGET ORDINANCE AMENDMENT TO PROVIDE FUNDING TO THE ASHEVILLE TRANSIT AUTHORITY

Mayor Michalove said the Asheville Transit Authority has experienced cost overruns for fiscal year 1990/91. This action is required to provide funding to continue service at present levels through June 30, 1991. This action will increase public funding for ATA from $1,362,900 to $1,505,140 or $142,240. He said the cost overruns is due to increased fuel and health insurance costs.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Bratton moved for the adoption of Ordinance No. 1913. This motion was seconded by Councilman Frank.

On a roll call vote of 5-0, Ordinance No. 1913 passed on first and final reading.

Ordinance Book No. 12 - Page 365

F. CITY COUNCIL COMMITTEE REPORT ON THE CIVIL SERVICE BOARD.

Councilman Ellison highlighted a Committee report relative to the Civil Service Law regarding membership and the law. He said they were recommending that a term of three years be established for the members with a maximum of two terms and further that the terms be staggered. He also requested that the staff provide Council with a report in September, 1991 regarding the City's new Personnel Policy. He said the Committee is recommending that no changes in the Asheville Civil Service Law be pursued at this time.

Councilman Bratton requested that the staff look into contracting with an outside agency for testing of Civil Service positions.

Mayor Michalove asked the City Manager give members of Council a report within two months on the feasibility of contracting with an outside agency for testing.

Councilman Ellison moved to adopt the report of the committee and to direct the City Attorney to prepare the necessary documents to implement the recommended changes of the committee. This motion was seconded by Councilman Bratton and carried unanimously.

G. RESOLUTION NO. 91-73 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH MARSHALL & STEVENS INCORPORATED FOR APPRAISAL SERVICES

John Miall, Risk Management Director, said this action will provide current and accurate value for replacements costs for insuring City properties. He recommended the acceptance of the proposal submitted by Marshall & Stevens Incorporated.

Upon motion of Councilman Estes, seconded by Councilman Frank, Resolution No. 91-73 was unanimously adopted.

Resolution Book No. 18 - Page 412 - 413

V. CONSENT:

A. Scheduling public hearing on final statement of Community Development Objectives for FY 92 for May 21, 1991.

B. Resolution No. 91-74 - Resolution to authorize submission of an amended Statement of Community Development Objectives and Projected Use of Funds.

Resolution Book No. 18 - Page 414 - 415

C. Motion to rescind Resolution No. 91-61 - Resolution authorizing the Mayor to execute an easement in favor of Carolina Power and Light Company for property at the Airport.

D. Resolution No. 91-75 - Preliminary resolution calling for a public hearing to levy special assessments for Azalea Avenue.

Resolution Book No. 18 - Page 416

E. Resolution No. 91-76 - Resolution authorizing the City Manager to enter into contract for fire suppression services with the Enka Candler and Rescue Department, Inc. for service in the Brevard Road Annexation Area.

Resolution Book No. 18 - Page 417

F. Resolution No. 91-77 - Resolution authorizing the City Manager to enter into contract for fire suppression services with the Enka Candler Fire and Rescue Department, Inc. for service in the West II Annexation Area.

Resolution Book No. 18 - Page 418

Upon motion of Councilman Frank, seconded by Councilman Bratton, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

A. Ordinance No. 1914 - Ordinance appropriating grant funds for the Swannanoa River Archeology Survey.

The City Manager said the NCDCR has provided the Historic Resources Commission with a grant of $5,500 for the archaeology project. Buncombe County Board of Commissioners have provide matching funds. The HRC

requests a budget amendment to appropriate funds received and to distribute the funds to administer the project.

Councilman Ellison moved for the adoption of Ordinance NO. 1914. This motion was seconded by Councilman Frank.

On a roll call vote of 5-0, Ordinance No. 1914 passed on first and final reading.

Ordinance Book No. 12 - Page 366

B. Report of Group Development Actions by Planning and Zoning Commission

Don Sherrill from the Planning Department, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. He said in accordance with the new procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. He said the following action was taken by the Planning and Zoning Commission at their meeting on May 1, 1991.

(1) 475 Kenilworth Road Apartments

Mr. Sherrill said the Asheville Planning and Zoning Commission on May 1, 1991, reviewed and approved the site plan of 475 Kenilworth Road Apartments subject to the following contingencies:

1. The developer receive approval to connect to the City water system and the MSD sewer system.

2. The developer shall install a sidewalk and fire hydrant to City standards along Kenilworth Road.

3. The project shall meet the requirements of the City's landscape ordinance.

4. The developer shall submit and receive approval of a single site plan with all of the required information by the Planning Department staff.

Councilman Frank moved to schedule a public hearing relative to the site plan for 475 Kenilworth Road Apartments for May 21, 1991. This motion was

seconded by Councilman Bratton and carried unanimously.

B. Motion to schedule public hearing relative to rezoning property located at Manor Inn Apartments for May 21, 1991.

Councilman Ellison moved to schedule a public hearing relative to rezoning property located at Manor Inn Apartments for May 21, 1991. This motion was seconded by Councilman Frank and carried unanimously.

C. Nicasio Martinez - Racial Equality

Mr. Nicasio Martinez, Route 3, Box 143A, Leicester, North Carolina, read a lengthy prepared statement relative to concerns of racial equality in the schools and businesses in Asheville. A copy of his statement is on file in the Office of the City Clerk,

D. Claims - Jeff Tucker (Water) - Jerry A. Sluder (Water) - Christine Norris (Civic Center) - Crystal Bryant (Police) - Hazel Whitt (Water) - Randy Berry (Parks) - Tom Morrow (Parks) - Lucille Ray (Water) - Van C. Nuygen (Fire Department)

The City Manager said claims were received from Jeff Tucker, Jerry A. Sluder, Christine Norris, Crystal Bryant, Hazel Whitt, Randy Berry, Tom Morrow, Lucille Ray, and Van C. Nuygen.

Mayor Michalove said these claims have been referred to the appropr.iate insurers for investigation.

E. Lawsuits - Housing Authority v. Ruth Robinson, City of Asheville, et al. (Condemnation of property for Head of Montford Area Redevelopment Plan

The City Manager said the City was served with a lawsuit on April 24, 1991 involving Housing Authority v. Ruth Robinson, City of Asheville, et al. relative to condemnation of property for Head of Montford Area Redevelopment Plan.

Mayor Michalove said the lawsuit has been referred to the appropriate legal counsel for action.

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 8:10 p.m.

W. M. Nicholson
MAYOR

William S. Wolcott
CITY CLERK

Tuesday - May 14, 1991 - 1:30 P.M.

Work Session Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Norma T. Price, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott

Absent: Councilman Mary Lloyd Frank - Councilman Wilhelmina Bratton - Councilman William W. Estes

A. Budget Discussions - Outside Agency Presentations

1. Chamber of Commerce
2. Community Relations Council
3. Community Arts Council
4. YMI Cultural Center
5. High Country Craft Guild (For The Indian Arts Exposition)
6. River Link
7. Drug Commission
8. Water Budget

B. Ordinance No. 1915 - Budget Ordinance Amendment - Drug Commission

Councilman Price moved for the adoption of Ordinance No. 1915 to fund the request for the Drug Commission for the remainder of the fiscal year 1990/91 in the amount of $20,500. This motion was seconded by Councilman Ellison.

On a roll call vote of 4-0, Ordinance No. 1915 passed on first and final reading.

Ordinance Book No. 12 - Page 367

K. M. Michalove
MAYOR

William F. Wolcott
CITY CLERK

Regular Meeting - May 21, 1991 - 4:00 p.m.

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott

Absent: Councilman Norma T. Price

INVOCATION

The invocation was given by Councilman Frank.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the minutes of the April 9, 1991, April 16, 1991, April 29, 1991, May 7, 1991, and May 14, 1991 meeting as submitted.

I. PROCLAMATIONS:

A. Proclamation - "Bike-To-Work Day" - May 21, 1991

Mayor Michalove proclaimed May 21, 1991 as "Bike-To-Work Day" and presented a copy of the proclamation to Chris Johansen with Bikeways Task Force.

B. Presentation of "Outstanding Apprenticeship Programs" Award Asheville Fire Department's Joint Apprenticeship Training Program.

John Rukavina, Fire Chief, said the City of Asheville Fire Department's Joint Apprenticeship Training Program for firefighters received an "Excellence in Achievement" Award from the N. C. Department of Labor. He recognized those members of the Fire Department responsible for attaining this outstanding award.

The City Manager said John Rukavina is also one of six Fire Chiefs to be accepted at the Harvard's Program for Senior Officials in State and Local Government. He said he also received a scholarship from the Federal Emergency Management to attend the course. He said the City is very proud of our Fire Chief and this shows excellent "Leadership by Example".

C. Resolution No. 91-78 - Resolution of Appreciation for retiree, Frank M. Griffin.

Mayor Michalove recognized Frank Griffin who is retiring from the City of Asheville after 23 years of service as a Firefighter. He said Frank Griffin's contributions to his community as an Asheville Firefighter have resulted in the saving of lives and property.

Upon motion of Councilman Ellison, seconded by Vice-Mayor Moore, Resolution No. 91-78 was unanimously adopted.

Mayor Michalove presented the resolution to Frank M. Griffin.

Resolution Book No. 18 - Page 420

D. Resolution No. 91-79 - Resolution Of Appreciation For Retiree, Carroll Radford

Mayor Michalove read a resolution recognizing Carroll Radford who is retiring from the City of Asheville after 21 years of service as a Laborer, Sr., in the Sanitation Division of the Public Works Department. He said he has worked as Setout-Setback man, Laborer and Laborer, Sr.

Upon motion of Councilman Ellison, seconded by Vice-Mayor Moore, Resolution No. 91-79 was unanimously adopted.

Resolution Book No. 18 - Page 421

E. Recognition Of Volunteers - Parks And Recreation Department - Proclamation - May 31, 1991 - "Parks And Recreation Volunteer Recognition Day".

Ray Kisiah, Director of Parks, Recreation, and Public Facilities, said over 2,500 residents of Asheville and Buncombe County have graciously donated a limitless amount of time and talent toward a more diversified and quality program of recreation services in the City of Asheville. The City of Asheville wishes to recognize these individuals for their continued cooperation and to encourage the voluntary participation of others in this valuable service.

He said the City of Asheville wishes to especially recognize Roy and Diatha Harris of the William C. Reid Recreation Center as the "Outstanding Volunteers" for their consistent and dedicated efforts towards youth

programs at this neighborhood recreation center. He said Mr. Harris has been a co-founder of the Partners Teen Club that sponsors Career Day, College Day and Sneakers Dances, as well as serving as a volunteer coach for football, basketball, and track; and Mrs. Harris has coached softball, volleyball and track; and both, by example, have shown the positive role recreation plays in the lives of our community's young people.

He said a number of active volunteers in the City's recreation program will be honored at a dinner at Malvern Hills Pool and Park at 6:30 p.m. on Friday, May 31, 1991.

Mayor Michalove presented the proclamation to Ray Kisiah, Director of Parks, Recreation, and Public Facilities.

II. PUBLIC HEARINGS:

A. Public hearing relative to closing Post Street between North French Broad Avenue and Otis Street.

Resolution No. 91-80 -Resolution To Close Post Street Between North French Broad Avenue And Otis Street In The City Of Asheville, North Carolina

Mayor Michalove opened the public hearing at 4:17 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

The City Manager said this matter was before Council about two months ago and there was a concern over the notice given. He said adequate notice has been given and the matter is again before Council for action. He said this is a request from General Service Administration (GSA) to allow for the construction of a new federal building in downtown Asheville. He said GSA needs this street closed in order to meet their parking requirements.

He said at the last meeting several concerns were expressed relative to the street closing those being the eliminating of pedestrian traffic around this entire site and the concern that the area would be fenced for security of vehicles. He said GSA has indicated that the site plan does not indicate fencing of the site and the existing Post Street would be the entrance into their facility and they would provide a sidewalk that pedestrians could still use to get into downtown.

Gary Rowe said he and his partners own 42 N. French Broad Avenue which is the building immediately at the intersection of the site where the street is proposed to be closed. He questioned GSA's need to close Post Street in order to construct their facility. He said this particular street is accessed in many ways for the downtown area and it is in the public interest to keep the street open. He said the closing would eliminate twenty existing parking spaces and public access into other buildings in the area. He said the closing would increase traffic congestion because this would eliminate one of the major streets in the area. He said this would isolate the businesses west of North French Broad Avenue from access into downtown.

He said they had received information that the area would be fenced which would create a "downtown compound".

Mr. Rowe said another point to consider and from his calculations the City would be giving up $293,000 in city property for no consideration. He said he based his figures on what GSA paid for a parking lot in the area.

Mr. Rowe requested that Council not close Post Street because it is not in the public interest.

The City Manager noted that the City would not be giving up city property because the property is not presently on the tax books and the City would be gaining a $30 million investment. He said many jobs would remain downtown by the construction of the new federal building. He said if the federal building is not constructed in downtown the economic impact would be devastating.

Mayor Michalove closed the public hearing at 4:37 p.m.

Mayor Michalove said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Vice-Mayor Moore, seconded by Councilman Frank, Resolution No. 91-80 was unanimously adopted.

After discussion, Councilman Frank moved that GSA be requested to provide and maintain a pedestrian access through the Post Street property and that Council strongly suggest that if the parking area needs to be secured that they take every appropriate action not to use fencing. This motion was seconded by Councilman Ellison and carried unanimously.

Resolution Book No. 18 - Page No. 422-423

B. Public hearing relative to a group development known as "Kenilworth Road Apartments" to be located at 475 Kenilworth Road.

Mayor Michalove opened the public hearing at 4:40 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Don Sherrill, from the Planning Department, said the developer requests Group Development approval to construct a five unit apartment building at 475 Kenilworth Road. The site is .85 acre in size and lies within the R-2 zoning district.

He said at their meeting, May 1, 1991, the Planning and Zoning Commission voted to recommend approval of the project subject to the following contingencies:

1. The developer receive approval to connect to the City water system and the MSD sewer system.

2. The developer shall install a sidewalk and fire hydrant to City standards along Kenilworth Road.

3. The project shall meet the requirements of the City's landscape ordinance.

4. The developer shall submit and receive approval of a single site plan with all of the required information by the Planning Department staff.

Mr. Sherrill said the Planning Staff and the Commission is concerned about the steep bank on the property and the erosion problems that could occur and the compaction of the soil since the property has been filled. He said these concerns would have to be addressed by the Building Inspector during construction of the project.

Vice-Mayor Moore said he is familiar with the property and would have the same concerns as well as the silt that might be dumped into Kenilworth Lake.

William Harris of 40 Springdale spoke in opposition to the project stating that the multi family units are inappropriate for the neighborhood.

Jim Salaski, President of the Kenilworth Forest Homeowner's Association, said he felt it would be more appropriate to use the square footage of usable space rather than calculating usable and unusable land. He asked if the developer could reduce the number of units to four rather than five.

Paul Atkins, contractor for the project, said he did not think the number of units is a factor. He said the project meets all the requirements for the construction of five units. He said he could not answer whether five units would be feasible without further study.

Mayor Michalove said the property is within the zoning requirements. He did note that Council received a petition from the neighborhood opposing the project.

Mayor Michalove closed the public hearing at 5:00 p.m.

Councilman Ellison moved for the approval of the group development known as "Kenilworth Road Apartments" to be located at 475 Kenilworth Road pursuant to the contingencies outlined by the Planning and Zoning Commission. This motion was seconded by Councilman Frank.

A discussion was held relative to Planning and Zoning Commission's contingency that "the developer shall submit and receive approval of a single site plan with all of the required information by the Planning Department staff."

The City Attorney noted that it is Council's responsibility to approve the site plan and if the present site plan does not contain all the necessary information, Council could not delegate that authority to the Planning Staff. He suggested that the matter be delayed until the developer presents a proper site plan containing all the necessary information.

After discussion, Councilman Ellison withdrew his motion for approval.

Vice-Mayor Moore moved to delay action on the group development plan for Kenilworth Road Apartments to be located at 475 Kenilworth Road until the developer

presents an appropriate site plan showing all the required information. This motion was seconded by Councilman Bratton and carried unanimously.

C. Public hearing relative to request to rezone property and grant a conditional use permit for the property known as the Manor Inn Apartments.

Ordinance No. 1916 - Ordinance Ordinance Amending The Zoning Ordinance And The Zoning Map Of The City Of Asheville To Rezone Property Located At 265 Charlotte Street (Manor Inn Property) And Identified As Ward 2, Sheet 15, Lots 98 And 100 Of The Buncombe County Tax Maps To Cu Conditional Use District.

Mayor Michalove opened the public hearing at 5:11 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Don Sherrill, from the Planning Department, said the developer is requesting that the Manor property be rezoned from the current zoning of R-2 and R-3 to the Conditional Use District for Historic Landmarks. The property was previously designated a Historic Landmark by City Council. The proposed use will preserve the Manor as apartments. The existing zoning will not allow the density of units required for this project. The developer also requests the approval of a Conditional Use Permit by City Council. The architect has been working with the Historic Resources Commission, the Albemarle Park Residents, the Sunset/Grove Park Residents, and the Asheville Planning Department to develop a plan for the Manor that is sensitive to the residential needs and historic qualities of the area.

He said at their meeting May 1, 1991, the Asheville Planning and Zoning Commission voted to recommend approval to rezone the Manor property from the R-2 and R-3 zoning classification to the Conditional Use District for Historic Landmarks. The Commission also voted to recommend approval for the granting of a Conditional Use Permit for the Manor subject to the following conditions:

1. The multifamily residential density shall not exceed 55 units;

2. Parking areas may remain gravel;

3. Landscaping be provided in compliance with the Historic Resources Commission guidelines; and

4. The buildings be provided and remain as shown on the plan dated April 1, 1991 and revised April 18, 1991.

Robert Griffin, developer, spoke in support of the project. He said he has received unanimous support from the neighborhoods.

Tom Leslie, Project Manager and Leasing Agent, spoke in support of the project.

Jean Warner, President of the Preservation Society, said the developer purchased the property from the Preservation Society two weeks ago.

Mayor Michalove closed the public hearing at 5:25 p.m.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Bratton moved for the adoption of Ordinance No. 1916 and the approval of the Conditional Use Permit as recommended by the Planning and Zoning Commission. This motion was seconded by Councilman Frank.

Nicasio Martinez, Route 3, Box 143A, Leicester, North Carolina encouraged the use of minority business contractors during construction of the project.

On a roll call vote of 6-0, Ordinance No. 1916 passed on first reading.

Mayor Michalove said the second reading of the ordinance would be held on June 4, 1991.

D. Public hearing relative to the Community Development Needs and Final Statement of Objectives for 1991-92.

Resolution No. 91-81 - Resolution Authorizing Submission Statement Of Community Development Objectives For FY 92 To The U.S. Department Of Housing And Urban Development.

Mayor Michalove opened the public hearing at 5:28 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Councilman Ellison said the Community Development/Housing Authority Committee reviewed each request for CDBG funds based on the CDBG Goals adopted by City Council. He said each request was given a priority rating based on these goals.

Councilman Ellison said the primary goals adopted by Council included: 1) to avoid homelessness; 2) to increase the supply of housing affordable to low and moderate income families and accessible to job opportunities; 3) to improve housing opportunities especially for disadvantaged minorities; 4) to help make neighborhoods safe and livable; 5) to expand opportunities for homeownership; 6) to provide a supply of mortgage financing at the lowest possible rates; 7) to encourage tenant empowerment in public housing. He also reviewed the priority ratings.

Councilman Ellison said after thorough review of all requests the Committee recommends funding for the following:

Neighborhood Housing Services $100,000, Mountain Housing Opportunities $100,000, Habitat for Humanity $150,000, Head of Montford $260,000, City Wide Rehab $366,000, A-B Community Relations Council $14,500, Vanderbilt Apts. $63,500, Carolina House Shelter by ABCCM $35,000, C.D. Planning $30,000, Minority Business Program $30,000, C.D. Administration $123,000.

Councilman Bratton said if Council is going to use the committee approach on recommending funding then the committee needs to be expanded. She said other programs should be considered other than primarily housing.

Paul Jackaway, Manager of the Vanderbilt Apartments, answered several questions from Councilman Bratton. He said the Vanderbilt Apartments is a private non-profit organization. He said the requested funds would be used to keep the minimum rent payments for tenants at $165.00 and to replace drafty single pane windows which causes the electric bill to be 45% of their operation cost. He said the apartments are used by low and moderate income tenants and the average age of the residents is 83. He said they have no other place these individuals can go to live. He said the Vanderbilt Apartments are managed with two staff members. He told Councilman Bratton the members of the Board of Directors for the Vanderbilt Apartments. He said he presently has 155 tenants with 3 vacancies.

Larry Holt, Deputy Executive Director of the Housing Authority, explained the difference in City Wide Rehabilitation Program and Neighborhood Housing Services.

Rick Matthews, with Neighborhood Housing Services, answered questions from Councilman Bratton. He said Neighborhood Housing Services is a private non-profit organization. He said the requested funding would be used to improve lender participation and to assist first time home owners with their down payment. He reviewed the members of the Board for Councilman Bratton.

A representative from Carolina House Shelter by ABCCM answered questions from Councilman Bratton. He said the Carolina House Transitional Shelter will be used for up to 24 months of transitional housing for homeless, handicapped, individuals and families. He said they would provide social services, day care, and rehabilitation. He said the requested funding would be used for operations and support.

Marvin Vierra, Community Development Director, said the Minority Business Program is funded separately because their function is city wide and the operation of this program has to be separated in some way to determine what portion is conducted as far as Community Development is concerned.

Michelle Manning, with the Alzheimers Association, requested CDBG funds to help their organization with Cross Anchor Inn, a resident day care facility used by Alzheimers patients for up to thirty days in order to give their families a break from caring for them. She said caring for an Alzheimers patient is very trying and the families have to have a temporary break in order to deal with the situation.

Mrs. Bingham with the Alzheimers Association also spoke in support for funding for the Cross Anchor Inn. She said the funds would be used for operating expenses and they have requested funding in the amount of $48,000. She said the Cross Anchor Inn serves a 25 county area and they presently receive some funding from the Land of Sky Regional Council.

Wanda Henry-Coleman, Executive Director of the YMI Cultural Center, spoke in support of funding for the South Pack Square Project. She said Council should continue what they had started in redevelopment efforts. She said the South Pack Square Project would eliminate blight conditions and provide jobs for minorities.

Councilman Frank noted that the South Pack Square Project was applied for by the YMI Cultural Center as applicant. She said the South Pack Square Project received 50 points on the priority rating system applied to each application for funds.

Roger McGuire also spoke in support of funding for the South Pack Square Project.

Ted Prosser said funding should be provided for South Pack Square Project in order to protect investments. He said they originally requested funding in the amount of $200,000 but could start and get going with $89,000.

At the request of Councilman Ellison, Councilman Frank moved to excuse Councilman Ellison from the meeting. This motion was seconded by Vice-Mayor Moore and carried unanimously. (Councilman Ellison needed to attend another meeting)

Jim Barrett with Pisgah Legal Services said housing should be Council's number one concern and asked that in their considerations that funding for housing not be cut.

Tony Clarke-Sayer also spoke in favor of funding for housing services.

Mayor Michalove closed the public hearing at 6:44 p.m.

Mayor Michalove said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Councilman Bratton moved to approve the resolution and accept the recommendation of the Community Development/Housing Authority Committee with the exception that some funding go to the Alzheimers Association. This motion died for the lack of a second.

At the request of Councilman Estes, the City Attorney said he would not have a conflict of interest on voting on the CDBG funding even though he is a member of the Board of Directors for the Vanderbilt Apartments.

Upon motion of Vice-Mayor Moore, seconded by Councilman Frank, Resolution No. 91-81 was unanimously adopted.

Council asked the staff to analyze the projects that did not get funded and determine if other funds might be available for their projects.

Resolution Book No. 18 - Page No. 424-425

III. OLD BUSINESS:

A. Ordinance No. 1917 - Ordinance amending Section 30-1-3 Jurisdiction of Ordinance No. 322 known as the Zoning Ordinance of the City of Asheville to add the areas specified as "The West Area" to the Extraterritorial Jurisdiction of the City of Asheville.

Verl Emrick, from the Planning Department, said a public hearing was held on this ordinance on May 7, 1991. He said the Planning and Zoning Commission has recommended that the area specified as the "West Area" be included in the City's extraterritorial zoning jurisdiction and the property zoned as recommended.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Ward Hendon, with the law firm of Adams, Hendon, Carson, Crow and Saenger, requested that the tract bordered by Monte Vista Road and Holbrook Road be zoned Light Industrial. He said the property is close to the interstate and is typically industrial property. He said it is his understanding that the state is proposing a frontage road in that area and this would allow the traffic to use this road rather than the interstate. He said the Chairman of the Planning and Zoning Commission stated at the public hearing that the Commission would not object if Council changed the proposed zoning from R-2 residential to Light Industrial.

Gary Tweed, 165 Monte Vista Road, Candler, North Carolina, supported the zoning as recommended by the Planning and Zoning Commission. He requested that if Council decides to change the zoning to Light Industrial that they send the matter back to Planning and Zoning Commission for another hearing for all the residents in the area to voice their opinion.

He said he contacted the North Carolina Department of Transportation and they indicated they have no plans for a frontage road.

Councilman Bratton moved for the adoption of Ordinance No. 1917 and to accept the recommendation of the Planning and Zoning Commission except for Lot 38 which shall be zoned Light Industrial District. This motion was seconded by Vice-Mayor Moore.

On a roll call vote of 5-0, Ordinance No. 1917 passed on first reading.

Mayor Michalove said the second reading of the ordinance would be held on June 4, 1991.

B. Ordinance No. 1909 - Second reading of an ordinance amending Chapters 26 and 30 of the Code of Ordinances of the City of Asheville (Hillside Development Requirements).

Mayor Michalove said the proposed amendments would assure that graded areas are distributed throughout the site and extend the Hillside Development Regulations to subdivisions.

Gerald Green, with the Planning Department, said as requested by Council, it is being recommended that Section 1 - 30-15-1(H) include the words "where feasible".

Rick Roberts with the Home Builders Association, requested that Council delay the second reading of this ordinance until Council considers the ordinance on street grades.

After discussion, Mayor Michalove said the second reading of the ordinance dealing with Hillside Development Requirements would be considered at the same time the ordinance dealing with Street Grades is considered. He said action is tentatively scheduled for June 4, 1991.

C. Ordinance No. 1911 - Second and third reading of an ordinance to extend the Corporate limits of the City of Asheville to an area known as Brevard Road.

Mayor Michalove said the adoption of this ordinance extends the corporate limits to the West Area. The ordinance specifically states that the Brevard Road Area meets the requirements for annexation, that it is the intent of the City of Asheville to provide services to the area as set forth in the Plan for the Extension of Municipal Services, and that upon the effective date of annexation the city will have sufficient funds appropriated to finance the construction of major trunk water mains and sewer outfalls needed in the area. The ordinance fixes the effective date of annexation for June 30, 1991.

Helen Reed spoke in opposition to the annexation. She said the residents are being forced into annexation.

Paul Jones, 672 Sand Hill Road, spoke in opposition to the annexation. He said there are many elderly residents in the area proposed for annexation that are on fixed incomes and can not afford higher taxes. He said after checking with many of the residents he found that several of the residents were not notified of the annexation. He said all residents should be properly notified.

Patty Tallerday said notices were mailed to all recorded property owners. He said in the event a property owner could not be notified then the area was posted. He said when a mailing is returned then a certified registered letter is sent to the recorded property owners. He said every effort is made to give all recorded property owners proper notice.

Mayor Michalove said the ordinance was previously read on first reading and will not be reread in its entirety.

On a roll call vote of 5-0, Ordinance No. 1911 passed on second reading.

D. Ordinance No. 1910 - Second reading of an ordinance amending the zoning ordinance of the City of Asheville (Articles 6 and 11 - Group Developments).

Mayor Michalove said the proposed amendment moves Section 30-11-4, which sets forth the procedure for group development application and review to Article 6 of Chapter 30. Other requirements and stipulations regarding group development are currently found in Article 6. The wording of the proposed Section 30-6-2(f) has been revised so that the requirement for the reporting of the Planning and Zoning Commission's recommendation to City Council does not conflict with City Council's new meeting schedule.

Mayor Michalove said the ordinance was previously read on first reading and will not be reread in its entirety.

On a roll call vote of 5-0, Ordinance No. 1910 passed on second reading.

Vice-Mayor Moore moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1910. This motion was seconded by Councilman Frank and carried unanimously.

On a roll call vote of 5-0, Ordinance No. 1910 passed on third and final reading.

Ordinance Book No. 12 - Page 355 - 358

E. Ordinance No. 1912 - Third reading of an ordinance amending Section 2-44 (Delegation of City's power authority, duty; grant of franchise reserved to citizens) of the Code of Ordinances regulating the service area of the Asheville Transit Authority.

Mayor Michalove said this ordinance will allow the public transportation system to operate outside Asheville.

Mayor Michalove said the ordinance was previously read on first reading and will not be reread in its entirety.

On a roll call vote of 5-0, Ordinance No. 1912 passed on third and final reading.

Ordinance Book 12 - Page 363 - 364

IV. NEW BUSINESS:

A. Presentation of the Annual Budget for Fiscal Year 1991-92.

The City Manager presented the Annual Budget for Fiscal Year 1991-92 and highlighted the budget message.

Upon inquiry of Councilman Estes, the City Manager said a report will be given in the next few weeks relative to revenues the City can expect from the Fee Study.

Albert Sneed, Attorney representing the Council of Independent Business Owners, read a prepared statement relative to proposals to cut spending and save taxes without any reduction in services. He said the three specific proposals that will produce savings are: 1) Private Waste Collection; 2) Private Park Maintenance; 3) Public Relations; 4) Public Works Garage. The prepared statement is attached to the minutes and made a part of the minutes.

Nicasio Martinez, Leicester, North Carolina spoke in opposition to tax cuts. He said he would be willing to pay more taxes for better education for the children.

Chris Johansen spoke relative to the budget for 1991-92.

The City Manager said a public hearing regarding the Annual Budget for Fiscal Year 1991-92 will be held on June 4, 1991.

B. Ordinance No. 1918 - Ordinance amending Ordinance #1855, the Levy and Collection of Business License Taxes.

The City Manager said this ordinance provides for four new business classifications as allowed by North Carolina Department of Revenue: (1) Video Movies; (2) Campgrounds and Trailer Parks; (3) Mobile Home Dealers; (4) Telegraph Companies. It also provides a change of license fee amount for one existing classification: Restaurant - Current: $.50 per seat - Revised: 5 or fewer seats, booths, etc. $25.00 (Total) - More than 5 seats, booths, etc. $42.50 (Total). It provides addition of reference to local ordinances for two existing classifications: (1) Pawnbrokers, and (2) Taxicabs. Provides addition to Article II Section 9 in regards to confidentiality of affidavits or other proof of gross receipts.

This will create a decrease in amount received from restaurants. Amount currently received is $13,600. New amount to be received will be $10,000. Revenue generated by new classifications will help offset the decrease anticipated in the restaurant change; however, at this point the revenue can only be estimated.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Estes moved for the adoption of Ordinance No. 1918. This motion was seconded by Vice-Mayor Moore.

On a roll call vote of 5-0, Ordinance No. 1918 passed on first reading.

Councilman Estes moved to suspend the rules and proceed to the second reading of Ordinance No. 1918. This motion was seconded by Vice-Mayor Moore and carried unanimously.

On a roll call vote of 5-0, Ordinance No. 1918 passed on second reading.

Vice-Mayor Moore moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1918. This motion was seconded by Councilman Frank and carried unanimously.

On a roll call vote of 5-0, Ordinance No. 1918 passed on third and final reading.

C. Ordinance No. 1919 - Ordinance providing for the removal and disposition of abandoned, nuisance, and junked vehicles.

John Rukavina, Chief of Fire Department, said this ordinance provides for handling of abandoned, nuisance and junked vehicles on public or private property. He said the proposed ordinance is based on a model ordinance developed in response to legislation enacted in the last General Assembly. He highlighted the significant changes from the current ordinance.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Estes moved for the adoption of Ordinance No. 1919. This motion was seconded by Councilman Frank.

On a roll call vote of 5-0, Ordinance No. 1919 passed on first reading.

D. Ordinance No. 1920 - Budget amendment to appropriate funds for FAIR Housing Rehab Program.

Marvin Vierra, Community Development Director, said this budget amendment will reallocate CDBG funds from the CARROT (multi-family) to the FAIR (single family) housing rehab program.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Frank moved for the adoption of Ordinance No. 1920. This motion was seconded by Councilman Bratton.

On a roll call vote of 6-0, Ordinance No. 1920 passed on first and final reading.

Ordinance Book No. 12 - Page 433

V. CONSENT:

A. Scheduling public hearing relative to rezoning property located at 1897 Hendersonville Road for June 18, 1991.

B. Scheduling public hearing relative to historical signs for June 18, 1991.

Upon motion of Councilman Frank, seconded by Councilman Bratton, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

A. Downtown Commission Recommendation - Central Business District - Target Area for Renovation

Upon recommendation of the Downtown Commission, Councilman Frank moved that the Central Business District (CBD) be established as a "target area for renovation and rehabilitation to make the entire CBD eligible for participation in any and all federal programs, including the Section 312 Rehabilitation Loan Program. This motion was seconded by Councilman Bratton and carried unanimously.

B. Claims - Don Blankenship (Water) - Ethel McFalls (Wastewater) - Vauda Clark (Sanitation) - Faye Barnard (Wastewater) - Henry Hutchison (Water) - Thomas Campbell (Wastewater) - Jay H. Tarter (Police)

The City Manager said claims were received from Don Blankenship, Ethel McFalls, Vauda Clark, Fay Barnard, Henry Hutchison, Thomas Campbell, Jay H. Tarter.

Mayor Michalove said the claims have been referred to the appropriate insurers for investigation.

C. LAWSUITS - Dillingham Construction Co., Inc. - (Construction Contract)

The City Manager said the City was served with a lawsuit on May 17, 1991 relative to "Amount due on construction contract - Asheville Regional Airport Project.

Mayor Michalove said this lawsuit has been referred to the appropriate legal counsel for action.

D. Nicasio Martinez - Racial Equality

Nicasio Martinez, Route 3, Box 143A, Leicester, North Carolina, again spoke to members of Council relative to racial equality in the City of Asheville.

E. Beaver Lake Heights Subdivision - Larry Buckner

Larry Buckner, developer for the proposed Beaver Lake Heights Subdivision, said as requested by Council at the May 9, 1991 Council meeting, he met with the Asheville-Buncombe Water Authority relative to his

subdivision. He said the Water Authority approved the connection to the existing 2" water line if he sprinkled the houses constructed. He said they also approved the installation of a new 6" water line down Merrimon Avenue to increase the water supply to the residents in the area. He said the Planning Department informed him that Council would need to amend their motion relative to approval of the subdivision based on the Water Authority's recommendation.

After a brief discussion, it was determined that this matter should be postponed until Council members could get a clear understanding of exactly what the Water Authority approved for the Beaver Lake Heights Subdivision. Mayor Michalove said this matter would be placed back on the agenda for June 4, 1991.

F. May 28, 1991 City Council Meeting - Cancelled

Mayor Michalove announced that the May 28, 1991 City Council meeting has been cancelled due to Memorial Day.

VII. ADJOURNMENT:

Mayor Michalove adjourned the meeting at 8:50 p.m.

W. M. Michalove
MAYOR

William S. Coleman
CITY CLERK

COUNCIL OF INDEPENDENT BUSINESS OWNERS
PROPOSALS TO CUT SPENDING AND SAVE TAXES, WITHOUT ANY REDUCTION IN SERVICES

Asheville is now faced with extraordinary problems. Asheville and Buncombe County must make infrastructure repairs to rebuild and modernize the sewer, water, storm water drainage systems, and the landfill and the cost of these repairs will probably exceed 200 million dollars. At the same time, the City is beset by declining personal incomes when measured against the national average and a decreasing base of industry and commerce. The declining wealth of the community makes it even more difficult to make these much needed repairs and to invest in infrastructure for the future. As industrial and commercial tax base fails to increase, the burden of these repairs falls even more heavily on the tax payers that remain in the City. C.I.B.O. believes that these challenges can be met but that ordinary thinking will not suffice to do the job. Extraordinary challenges will require extraordinary measures. Creative approaches to problem solving are a must. To this end, C.I.B.O. has studied the City of Asheville Finances and believes that waste and inefficiency in City government can be cut, that tax rates can be held down and that additional funds can be squeezed from existing revenues to help pay for the infrastructure needed for the 21st century. C.I.B.O. believes that this can be done without any reduction in services. 10% of the tax levy in 1990-91 is approximately $1.6 million dollars. The three specific proposals that are attached will produce savings as follows:

	Minimum	Maximum
Private waste collection	600,000.00	1,000,000.00
Private park maintenance	200,000.00	400,000.00
Public relations	75,000.00	100,000.00
Public Works garage	360,000.00	360,000.00
	1,235,000.00	1,860,000.00

PRIVATIZE SANITARY WASTE COLLECTION

Proposal No. 1

Trash, garbage and sanitary waste pick-up in the City of Asheville for 1990-91 is budgeted to cost $2,146,200.00 in operating costs which includes tipping fees at the landfill. In addition, the City has other costs that are carried in other budgets that include:

(1) a portion of the administrative cost for public works;

(2) a portion of the cost of the personnel department;

(3) the capital costs of purchasing trucks;

(4) a portion of the costs of owning a garage to house the trucks;

(5) the tax base lost to City owned property used in housing the trucks and offices;

(6) debt service or lost interest on capital funds tied up in land, trucks and buildings; and

(7) the allocation of the non-departmental budget for pay raises and bonuses.

C.I.B.O. investigation estimates that the private contractors can pick up and deliver to the landfill all solid waste in the City for something in the neighborhood of $1.6 million or less. If the City were to "privatize" the waste collection system, the actual savings to the City would be between $600,000.00 and $1.0 million per year.

Privatizing a City service is a large departure from prior practices but it has worked successfully in the County for years and very successfully in many other cities at substantial savings. There are other cities where this has worked very satisfactorily. A list is attached.

In the past, some concerns have been expressed that it would possibly create problems if, after the City had sold its trucks and no longer had

employees to do the job, the contractor were to default. For this reason, C.I.B.O. believes that there should be multiple contractors involved and that that their contract renewal dates should be staggered. In addition, each contract should provide that if a given contractor defaulted for one day, his trucks must be made available at a certain rent figure to the City and that other contractors would be allowed to take over the routes. Further, each contractor would be required to agree to take over parts of a defaulting contractors routes for six months while it was re-bid and a bond or deposit would be held as security against which the City might charge any losses. Further, certain areas of the City that are small and are separated by topography or highways could be set aside for small independent operators to bid upon. C.I.B.O. believes that a genuine and honest effort to effect this program could create such large savings that some funds should be available to assist minority contractors and other would be entrepreneurs in bidding for small routes.

Because this action would displace a large number of City workers, it should be phased in and contractors should be assisted in hiring City sanitation workers. As the program is phased in, City trucks would be auctioned off and the funds invested in the City capital reserve. The interest on these funds should provide substantial income to the City for years to come. The private contractors would have to pay taxes on their trucks, business license fees to the City and City tax income should be increased without a change in the tax rate.

Attached is a letter from an existing contractor who is prepared to bid for this work. As can be seen, the saving would be significant.

PRIVATIZE PARK MAINTENANCE

Proposal No. 2

The City of Asheville maintains about 25 parks. The most expensive parks, McCormick Field, Aston Park, and the Municipal Golf Course have been taken over by the County. In addition to a budget of about $1,970,000.00 for parks programs, the City budgeted in 1990-91 $935,300.00 for parks maintenance and $219,900.00 for maintenance of right-of-ways and vacant lots. These figures do not include any capital expense and do not include the cost of equipment used.

The City has 431 acres of parks not including the Richmond Hills raw land. This maintenance budget results in a cost per acre per year for maintenance of $2,170.00 per acre. To give you a guideline, a top quality, high traffic golf course of 135 acres could be maintained for about $250,000.00 per year. This equates to about $1,850.00 per acre per year.

C.I.B.O. believes that private contractors could provide these maintenance services much more inexpensively and efficiently. These activities are mostly seasonal and private contractors would have much more flexibility in providing summer employment for students. City equipment could be sold at auction and the proceeds invested to bring interest to the City for years to come. Private contractors would pay taxes on this equipment and City sheds and garages could be put to other use or sold to tax paying uses. The maintenance contracts should be broken down into small groups of parks so that, at all times, the City would have several contractors working and available to cover one area or

another if a contractor should default. A small remote park could provide an opportunity for a minority or other would-be entrepreneur to get started. C.I.B.O. believes that the net saving from such an arrangement would be in excess of $200,000.00 per year.

Proposal No. 3

The City Public Relations Department is budgeted to cost $181,186.00 for 1990-91. In addition, there are other costs such as the non-departmental budget allocation for pay raises. C.I.B.O. believes that a person to produce an in-house employee newsletter and another person to take complaint calls and answer complaints could produce savings without cutting services. These activities could be provided for $75,000.00 per year for a saving of over $100,000.00 per year.

Proposal No. 4

C.I.B.O. believes the City should put plans for the New Public Works garage and building on hold until the privitization has been studied. With debt service cost of about $360,000.00 per year, a delay could produce significant short term savings.

STUDY COMMISSION

Proposal No. 5

C.I.B.O. believes that a study commission would be very helpful to the City Council in determining the efficiency of its operations. Attached is a list of names of local people who are committed to this community and who have demonstrated successful business and management skills. Each has agreed to serve if appointed. These people represent a wealth of experience in the private sector and their volunteer time would be worth thousands of dollars to the City. C.I.B.O. urges the City Council to

appoint a commission of successful C.E.O.'s and Business Owners, preferably of people from different backgrounds and experiences, and establish a study commission it should be directed to go into each department from the bottom to the top to determine whether or not there are additional cost savings, efficiencies, or improvements that might be made.

EXHIBIT "A"

In 1980 the per capita Effective Buying Income in the United States was $7,305.00. In the same year, the City of Asheville per capital Effective Buying Income was $7,556.00 or 103% of the U. S. average.

By 1990, the per capita Effective Buying Income in the United States had grown to $13,158.00. The City of Asheville per capita Effective Buying Income grew to $12,241.00 by 1990, but this represents only 93% of the U. S. average or a decline of 10 points between 1980 and 1990.

In 1980 the per capita Effective Buying Income for the City of Asheville was 120% of the North Carolina average, but by 1990 it declined to 107%. This is a 13 point drop compared to the state average.

Source: Sales & Marketing Management
Annual Survey of Buying Power

"Effective Buying Income" is defined as "personal income" less tax and non tax payments commonly known as "disposable" or "after tax income."

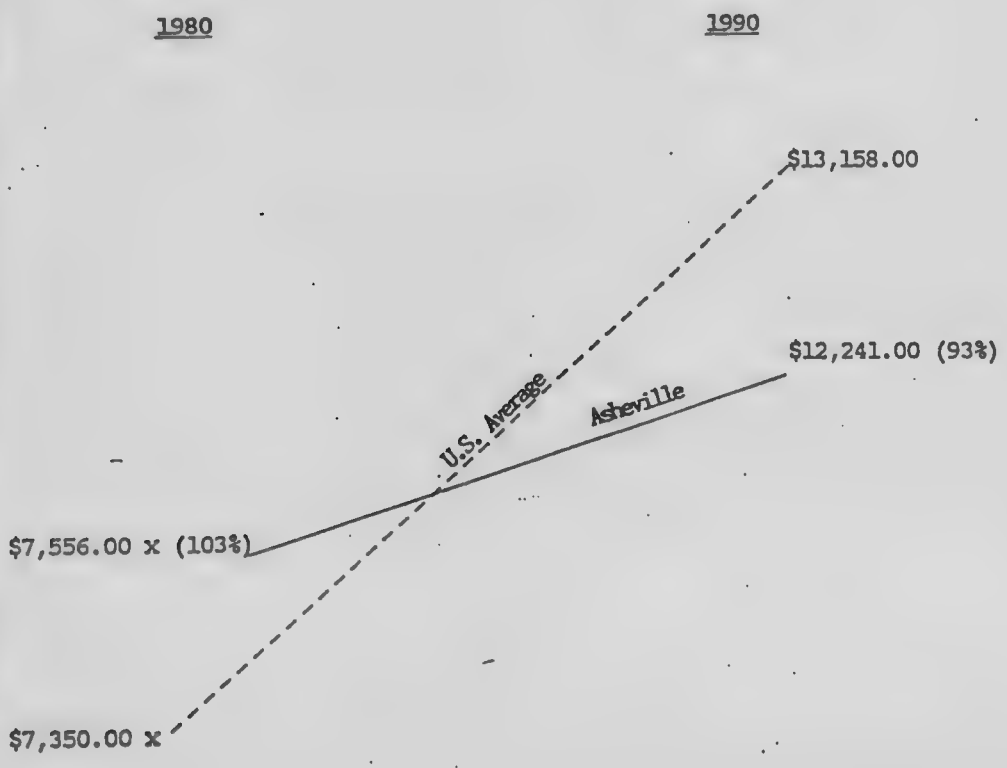

EXHIBIT "B"

Cities That have Successfully Privatized

1. Garner
   PH: 919-772-4688
   CONTACT: Peter Bine

2. Kannapolis
   PH: 704-938-5131
   CONTACT: Gene McCombs

3. Faith
   PH: 702-279-2654
   CONTACT: Carol Retallick

4. Albemarle
   PH: 704-982-0131
   CONTACT: Ray Allen

HYDER WASTE CONTAINER INC.
1070 RIVERSIDE DRIVE
ASHEVILLE, NORTH CAROLINA 28804
(704) 253-3929

January 4, 1991

C.I.B.O.

Attention: Mike Plemmons

Dear Mike,

After a thorough review of the City's latest figures of the number of households and businesses being served by the sanitation department we feel a significant savings can be accomplished. We are confident the City could realize reduced cost ranging from $500,000 per year to over $1,000,000.00 by privatizing their trash collection. This reduced cost savings coupled with the revenue generated from the sale of their equipment would truly be significant.

These figures are also consistant to the saving estimates that were demonstrated when the City accepted bids on this service in the early 1980's.

If we can answer any questions, please call.

Sincerely,

Mike Griffin

WATER	$ 75 MILLION
SEWER	$ 80 MILLION
STORM WATER	$ 45 MILLION
LANDFILL	$60 - 80 MILLION
JAIL	$ 18 MILLION
STREETS	?
	$200 - $300 MILLION

Ben Slosman

Jim Daniels

Buddy Patton

George Beverly

Tuesday - May 28, 1991 - 4:00 P.M.

Regular Meeting

NO MEETING

CANCELLED - MEMORIAL DAY

H. M. Michalow
MAYOR

William F. Walcott
CITY CLERK

CAuth

DEPARTMENT OF CULTURAL RESOURCES

DIVISION OF ARCHIVES AND HISTORY

ARCHIVES AND RECORDS SECTION

CERTIFICATE OF AUTHENTICITY

This is to certify that the microphotographs appearing on this film are true and accurate reproductions of records originated during the normal course of business by the City of Asheville Buncombe County and consist of Minutes and Includes Index

The records begin with Volume: 58 Year: June 5, 1990 Page: 1

and end with Volume: 58 Year: May 28, 1991 Page: 457

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Maina L. Rawan

Microfilm Camera Operator

STATE OF NORTH CAROLINA
DEPARTMENT OF CULTURAL RESOURCES

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Archives and Records Section
Raleigh, North Carolina

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CITY OF ASHEVILLE

MINUTES

DCR-DAH-ARS-RSB
Form IU-T4

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DCR-DAH-ARS-RSB
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Records Services Branch - Imaging Sub-unit

Volume: 59

Year: June 4, 1991 – April 14, 1992

Pages: 1 – 390

North Carolina Division of Archives and History
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DEPARTMENT OF CULTURAL RESOURCES

DIVISION OF ARCHIVES AND HISTORY

ARCHIVES AND RECORDS SECTION

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Microfilm Camera Operator

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Tuesday - June 4, 1991 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott

Absent: Councilmen Eugene W. Ellison

INVOCATION

The invocation was given by Councilman Bratton.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the minutes of the May 21, 1991 meeting as submitted.

I. PROCLAMATIONS:

A. Proclamation - "Race Unity Day" - June 8, 1991

Mayor Michalove proclaimed June 8, 1991 as "Race Unity Day" and presented a copy of the proclamation to Mary Ritter, YWCA Director of Public Support.

B. Resolution No. 91-82 - Resolution in memory of Morton S. Cohn.

Mayor Michalove read the resolution in memory of Morton S. Cohn.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 91-82 was unanimously adopted.

Resolution Book No. 18 - Page No. 426

C. Resolution No. 91-95 - Resolution in memory of Floyd B. McKissick, Sr.

Mayor Michalove read the resolution in memory of Floyd B. McKissick, Sr.

Upon motion of Councilman Bratton, seconded by Councilman Frank, Resolution No. 91-95 was unanimously adopted.

D. Proclamation - "Chronic Fatigue and Immune Dysfunction Syndrome Awareness Month" - June, 1991

Mayor Michalove proclaimed June, 1991 as "Chronic Fatigue and Immune Dysfunction Syndrome Awareness Month" and presented a copy of the proclamation to Pat Richie, member of the WNC Chronic Fatigue and Immune Dysfunction Syndrome Support Group.

E. Presentation by Housing Authority - Payment in lieu of taxes.

Peggy Shook, Chairman of the Housing Authority of the City of Asheville, presented the Mayor with a check in the amount of $33,115.48 as payment in lieu of taxes for the fiscal year ending September 30, 1990.

F. Resolution No. 91-83 - Resolution of appreciation to the J. C. Bradford Company for donations of bicycles to the Asheville Police Department

Mayor Michalove read the resolution of appreciation to the J. C. Bradford Company.

Upon motion of Councilman Frank, seconded by Councilman Bratton, Resolution No. 91-83 was unanimously adopted.

Resolution Book No. 18 - Page No. 427

G. Proclamation - "Dairy Month" - June, 1991

Mayor Michalove proclaimed June, 1991 as "Dairy Month".

II. PUBLIC HEARINGS:

A. Public hearing relative to City of Asheville Annual Budget for 1991-92.

Mayor Michalove opened the public hearing at 4:32 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

The City Manager said the City of Asheville Fiscal 1991/92 Annual Operating Budget has been presented to City Council for

consideration pursuant to N.C.G.S. 159. The budget includes a recommended Ad Valorem Tax levy of 60 cents per $100 assessed valuation for fiscal year 1991/92. A public hearing is required before the adoption of a budget ordinance. He said the budget is balanced and provides for a tax rate of 60 cents. He said the staff is still waiting for the State to make a decision on their budget relative to state shared revenues.

Harold Holcombe, officer with the Council of Independent Business Owners, spoke to members of Council relative to the budget. He questioned what it cost the City to obtain a GFOA Award for the budget; what it cost to provide a Fourth Annual Report and does the City need it; and the expense it took to do the history of the City/County form of government.

He also presented information to Council indicating that in his opinion the City could save funds by privatization of several services provided by the city, including sanitation services and park maintenance.

Mayor Michalove commented that previous Council members dealt with privatization of sanitation pick up and the current Council has not discussed this issue but it could be discussed at a later date. He said the City currently has private contract for several services such as school crossing.

Mayor Michalove closed the public hearing at 4:42 p.m. and said the budget ordinance would be considered on June 18, 1991.

III. OLD BUSINESS:

A. Resolution No. 91-84 - Resolution amending the report of plans for extension of City services into the Haw Creek II Area proposed for annexation.

The City Attorney said this amendment reflects a new effective date for the annexation ordinance and the deletion of a lot on New Haw Creek Road.

Mayor Michalove said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Vice-Mayor Moore, seconded by Councilman Bratton, Resolution No. 91-84 was unanimously adopted.

Resolution Book No. 18 - Page No. 428

B. Resolution No. 91-85 - Resolution amending the report of plans for extension of City services into the Brevard Road Area proposed for annexation.

The City Attorney said this amendment reflects a new effective date for the annexation ordinance and the deletion of several lots, mostly in the vicinity of PharMor Pharmacy.

Mayor Michalove said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Vice-Mayor Moore, seconded by Councilman Frank, Resolution No. 91-85 was unanimously adopted.

Resolution Book No. 18 - Page No. 429

C. Ordinance No. 1907 - Third reading of an ordinance to extend the corporate limits of the City of Asheville to an area known as the Haw Creek II Area under the authority granted by Part 3, Article 4A, Chapter 160A of the General Statutes of North Carolina.

Mayor Michalove said the ordinance was previously read on second reading and will not be reread in its entirety.

On a roll call vote of 6-0, Ordinance No. 1907 passed on third and final reading.

Ordinance Book No. 12 - Page 346-349

D. Ordinance No. 1911 - Third reading of Ordinance to extend the Corporate Limits of the City of Asheville to an area known as the Brevard Road Area under the authority granted by Part 3, Article 4A, Chapter 160A of the General Statutes of North Carolina.

Councilman Frank moved to amend Ordinance No. 1911 to change the effective date of the ordinance and to delete several lots from the annexation area, as reflected in the revised description attached to the

ordinance as Exhibit "A". This motion was seconded by Councilman Price and carried unanimously.

Mayor Michalove said the ordinance was previously read on second reading and will not be reread in its entirety.

Helen Reed spoke in opposition to the annexation. She said the residents would be paying taxes before they received any services.

Debra Bridges, 683 Brevard Road, presented a petition opposing the annexation and said the residents will fight its enactment with all legal means.

On a roll call vote of 6-0, Ordinance No. 1911 passed on third and final reading.

Ordinance Book No. 12 - Page 359 - 362

E. Ordinance No. 1916 - Second reading of an ordinance amending the Zoning Ordinance and the zoning map of the City of Asheville to rezone property located at 265 Charlotte Street (Manor Inn Property) and identified as Ward 2, Sheet 15, Lots 98 and 100 of the Buncombe County Tax Maps to CU Conditional Use District.

Mayor Michalove said the ordinance was previously read on first reading and will not be reread in its entirety.

On a roll call vote of 6-0, Ordinance No. 1916 passed on second reading.

Councilman Price moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1916. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1916 passed on third and final reading.

Ordinance Book No. 12 - Page 368

F. First reading of Ordinance amending Chapters 25 and 26 of the Code of Ordinances of the City of Asheville (Street Grades).

G. First reading of Ordinance amending Chapter 30 of the Code of Ordinances of the City of Asheville (Street Grade Requirements).

H. Second reading of Ordinance amending Chapters 26 and 30 of the Code of Ordinances of the City of Asheville (Hillside Development Requirements).

It was the consensus of Council to postpone action on the above three items pending further recommendation from the Planning and Zoning Commission.

I. Ordinance No. 1917 - Second reading of an ordinance amending Section 30-1-3 of the Code of Ordinances of the City of Asheville (Territorial and Extraterritorial Jurisdiction of Zoning Ordinance).

Mayor Michalove said the ordinance was previously read on first reading and will not be reread in its entirety.

On a roll call vote of 6-0, Ordinance No. 1917 passed on second reading.

J. Reconsideration of motion approving the Beaver Lake Heights Subdivision.

The City Manager said at the meeting of April 23, 1991 a motion was made to approve the Beaver Lake Heights Subdivision subject to 1) The proposed street be constructed to City standards and be dedicated to the City once completed; 2) The developer installs a 6 inch water line for 900' to tie into the existing city water system and that the developer and the Water Authority work out an agreement whereby the cost of the water line is shared and the water lines within the subdivision meet all state and local requirements; 3) That approval is contingent upon the Water Authority approving and moving ahead with the installation of the 6" water line along Merrimon Avenue to increase the pressure and quantity of the water in the area; 4) The project shall comply with the City's Erosion Control Ordinance.

He said at the Water Authority meeting this morning, June 4, 1991, the Water Authority agreed to replace 300 - 400 feet of existing 6" water line and that the developer extend 400 feet of 2" line; however the 2" line can not extend more than 1,00 feet.

Larry Bucker, developer, said this was the first he had heard that the Water Authority took action this morning. He said he would accept that recommendation and requested that Council amend their motion to approve the subdivision based on the Water Authority's recommendation.

Mike Holcombe, with the Water Department, said the installation of the 6" line along Merrimon Avenue is in progress and should be completed by the end of this month.

After discussion, Vice-Mayor Moore moved to amend the motion for approval of the Beaver Lake Heights Subdivision subject to the following contingencies: 1) The proposed street be constructed to City standards and be dedicated to the City once completed; 2) The developer be responsible for installing a 2 inch water line for a distance to meet his needs but in no case shall the line be extended more than 1,000 feet in order to tie into the existing city water system and the water lines within the subdivision meet all state and local requirements; 3) That each house be installed with sprinklers; 4) That approval is contingent upon the Water Authority approving and moving ahead with the installation of the 6" water line along Merrimon Avenue to increase the pressure and quantity of the water in the area; 5) The project shall comply with the City's Erosion Control Ordinance. This motion was seconded by Councilman Price and carried unanimously.

Ted Orr with the Home Builders Association said there is nothing in the North Carolina State Building Code that would require the developer to install sprinklers and he asked Council not to set a precedent for other developments.

A resident of Greenleaf Circle asked if the development would be meeting MSD standards. Mr. Sherrill with the Planning Department said the Beaver Lake Heights Subdivision received approval from MSD.

IV. NEW BUSINESS:

A. Approval of Asheville-Buncombe Water Authority Budget for 1991-92.

The City Manager said the Water Agreement requires that the City of Asheville, the County of Buncombe, and the Asheville-Buncombe Water Authority approve the Water Authority Budget each year. He said a recent presentation was made to members of Council relative to the Asheville-Buncombe Water Authority.

Mike Holcombe, with the Water Department, said the Budget for 1991-92 is $15,170,860 and it has been approved by the County of Buncombe and the Asheville-Buncombe Water Authority.

Vice-Mayor Moore moved to approve the Asheville-Buncombe Water Authority budget for 1991-92 as submitted. This motion was seconded by Councilman Frank and carried unanimously.

B. Subdivision Review - Highland Gate Subdivision - off Vance Gap Road.

Don Sherrill, Urban Planner, said the Highland Gate Subdivision is a 16 lot subdivision approved by City Council in October of 1987. The subdivision is zoned R-1 and is located off Vance Gap Road. The road constructed within the subdivision exceeds the City street grade maximum of 12%.

After the approval of the subdivision the developer thought the roadway had been approved as a private street. The City's subdivision ordinance requires that all lots in a subdivision abut a public street. However, the roadway grade exceeds the maximum grade allowed for a City street and will require a variance. The developer has been working with the Public Works Department and the Planning Department on the outstanding issues regarding the roadway.

After discussion, Councilman Price moved to approve the subdivision plat for Highland Gate Subdivision off Vance Gap Road subject to the following conditions: 1) The developer will maintain the roadway for the next five (5) years and obtain a performance bond to ensure maintenance for this period of time; 2) The City will inspect the roadway before the five (5) year maintenance period ends. Based on the inspection of the street, the developer will repair areas of the roadway that show signs of disrepair that are beyond the normal wear and tear of roadway usage; 3) The developer will maintain the streets as public streets. This motion was seconded by Councilman Price and carried unanimously.

A discussion was held relative to the developer being allowed to maintain a gate at the entrance to the subdivision to be used at night for security purposes. It was determined that the developer would not be allowed to maintain a gate but if a problem developed because a gate is not allowed he could come back before Council to get his problem resolved.

V. CONSENT:

A. Resolution No. 91-86 - Resolution authorizing the City Manager to execute on behalf of the City of Asheville an agreement with McGill Associates, P.A. for engineering services for Street and Sidewalk Improvement and Rehabilitation Projects.

Resolution Book No. 18 - Page 430

B. Resolution No. 91-87 - Resolution authorizing the City Manager to execute on behalf of the City of Asheville addendum 2 and addendum 3 to Contract 7 with Vaughn & Melton for engineering services for Street and Sidewalk Improvement and Rehabilitation Project.

Resolution Book No. 18 - Page 431

C. Resolution No. 91-88 - Resolution accepting a deed from the Housing Authority of the City of Asheville for property for the Public Works Facilities Project.

Resolution Book No. 18 - Page 432

D. Resolution No. 91-89 - Resolution authorizing William F. Slawter, as Trustee for three Deeds of Trust for the Pack Plaza Project, to execute an easement agreement for the Pack Place Project.

Resolution Book No. 18 - Page 433

E. Approval of bids - Trucks for Parks and Recreation Department.

Award of Bid Request No. 382-91 - Bid Item A, One (1) crew cab and chassis with Dump body to Matthews Ford, Inc. ($41,276.00); Bid Item B, One (1) One-Ton Cab and Chassis with Dump body to Ken Wilson Ford, Inc. ($18,448.00).

A copy of the bid summary is on file in the Office of the City Clerk and is hereby attached to these minutes.

F. Resolution No. 91-90 - Resolution authorizing the Purchasing Director to dispose of approximately 15 tons of scrap metal by sealed bid.

Resolution Book No. 18 - Page 434

G. Resolution No. 91-91 - Resolution authorizing the Mayor to execute on behalf of the City of Asheville

a modified Grant Agreement from the North Carolina Department of Transportation - Project No. 9.9584900 for the Asheville Regional Airport Authority.

Resolution Book No. 18 - Page 435

H. Resolution No. 91-92 - Resolution authorizing the City Manager to execute an amendment to Land of Sky Regional Council Transportation Contract 88-84.

Resolution Book No. 18 - Page 436

I. Scheduling public hearing relative to amendment to Chapter 30 of the Code of Ordinances of the City of Asheville (standards for placing manufactured homes on individual lots) for June 18, 1991.

Upon motion of Vice-Mayor Moore, seconded by Councilman Estes, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

A. Resolution No. 91-93 - Resolution authorizing the City Manager to sign on behalf of the City of Asheville an amendment to the Fire Protection Contract with Haw Creek Volunteer Fire Department, Inc.

The City Manager said the state law requires that Asheville offer a five-year fire protection contract to a department whose service area is reduced by annexation. He said this amendment will change parts of the contract with Haw Creek Volunteer Fire Department, Inc. due the annexation of the Haw Creek II Annexation Area.

Mayor Michalove said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Vice-Mayor Moore, seconded by Councilman Price, Resolution No. 91-93 was unanimously adopted.

Resolution Book No. 18 - Page No. 437

B. Resolution No. 91-94 - Resolution authorizing the City Manager to execute a contract with the Beaverdam Volunteer Fire Department, Inc. for Fire

Suppression Services to the Beaverdam Annexation Area

The City Manager said the state law requires that Asheville offer a five-year fire protection contract to a department whose service area is reduced by annexation. He said this contract will provide for fire suppression services to the Beaverdam Annexation Area.

Mayor Michalove said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Vice-Mayor Moore, seconded by Councilman Price, Resolution No. 91-94 was unanimously adopted.

Resolution Book No. 18 - Page No. 438

C. 32 Broadway - Demolition or Stabilization

Mayor Michalove read the following letter from Jim Samsel, from the Preservation Society, Revolving Loan Fund.

"Please review the attached cost/benefit considerations regarding the City of Asheville's efforts to control the public safety hazards at 32 Broadway.

The City stands to loose considerable tax revenue if the building is demolished and the property stands vacant - approximately $5,000 over a 10-year period. The City will also be required to invest additional staff time (estimated at $3,200) into the project before a resolution with the current owner is reached. If forced demolition is required, it is unclear whether the City could place a lien against the property for the demolition costs.

As an alternate to continuing the arduous legal/administrative process, the Preservation Society urges the City to reallocate its resources and join us in stabilizing the building. We believe that the property can be marketed to a private developer and fully rehabilitated within 3 years.

Prior to marketing, however, the building needs selective demolition, structural stabilization and a roof. The Preservation Society is prepared to

invest $25,000 beyond the acquisition cost. We request that the City match us on a 1:5 ratio with $5,000 grant for demolition and hazardous material abatement.

If we are correct, the $5,000 investment will net the City $3,200 or more over a ten-year period. More importantly, this project will demonstrate the potential of a "partnership" between the City and a non-profit corporation that may prove to be a useful model for similar projects in the future.

Thank you for your consideration. Time is of the essence in our negotiations and the City's attorneys are beginning another round of costly activities - a prompt response is appreciated."

After a brief discussion, Mayor Michalove said this item was given to members of Council as information today and the matter will be placed on the June 18, 1991 City Council agenda.

D. CLAIMS - Freda S. Mulvaney (Police) - JoAnn Thompson (Water) - Connie Steward (Water) - Roger Kanupp (Water)

The City Manager said claims were received from Freda S. Mulvaney, JoAnn Thompson, Connie Stewart, and Roger Kanupp.

Mayor Michalove said the claims have been referred to the appropriate insurers for investigation.

E. LAWSUITS - Asheville Oil Co., Inc., et al. (Challenge to sign ordinance) - Robert Lee Hood (Suit for damages for illegal arrest)

The City Manager said the City was served with a lawsuit on May 28, 1991 and May 29, 1991, respectively, involving Asheville Oil Co., Inc., et al relative to a challenge to the sign ordinance and another involving Robert Lee Hood relative to a suit for damages for an illegal arrest.

F. Conditional Use Permit - Manor Inn

Councilman Price moved to approve a Conditional Use Permit for the Manor Inn Apartments subject to the following conditions: 1) The multifamily residential density shall not exceed 55 units; 2) Parking areas may remain gravel; 3) Landscaping be provided in compliance with the Historic Resources Commission guidelines; and 4) The buildings be provided and remain as shown on the plan dated April 1, 1991 and revised

April 18, 1991. This motion was seconded by Vice-Mayor Moore and carried unanimously.

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 6:10 p.m.

MAYOR

CITY CLERK

Tuesday - June 11, 1991 - 4:00 P.M.

Regular Meeting

NO MEETING

CANCELLED - TOWN HALL DAY IN RALEIGH, N.C.

H. M. Nicholson
MAYOR

William F. Holcomb
CITY CLERK

Tuesday - June 18, 1991 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott

Absent: Mayor Michalove, Councilman Price and Councilman Ellison arrived at the meeting at 4:15 p.m. They were at a meeting at the County Commissioners when the meeting began.

Vice-Mayor Moore presided over the meeting until Mayor Michalove arrived at 4:15 p.m.

INVOCATION

The invocation was given by Councilman Estes.

APPROVAL OF MINUTES

Vice-Mayor Moore announced the approval of the minutes of the June 4, 1991 meeting as submitted.

I. PROCLAMATIONS:

A. Recognition of Good Neighbors - Bag-A-Thon participants for 1991.

Vice-Mayor Moore recognized representatives from Quality Forward who commended two youth groups and two poster 'artists" for their outstanding participation in the spring cleanup in Asheville.

They said the Deaverview Youth - 45 youngsters picked up 90 bags of trash at the Deaverview Apartments. Hillcrest Enrichment Program - over 70 youth, working with some adults at Hillcrest, picked up more than 250 bags of trash.

They also recognized Tonya Stokley and Bobby Plemmons as the two poster "artists" for their participation in the spring cleanup.

Each participant was presented a certificate and a check for their outstanding participation.

B. Proclamation - "Interstate Batteries Great American Race Day - June 23, 1991.

Ann Wiesenheit, from the Parks, Recreation, and Maintenance Facilities, said the City of Asheville is one of 13 cities nationwide serving as an overnight stop for the 14-day, 4,280 mile Interstate Batteries Great American Race, June 23, 1991. One hundred antique cars (1909 - 1938) will race across the country from Norfolk, Virginia, to Seattle, Washington.

Vice-Mayor Moore proclaimed June 23, 1991 as "Interstate Batteries Great American Race Day" and presented a copy of the proclamation to Ann Wiesenheit.

C. Proclamation - "National Fun and Fitness Week - June 17-23, 1991.

Ben Wax, with the Parks, Recreation, and Maintenance Facilities, said the recreation and park profession has made a commitment to provide diverse fun and fitness programs for youth of all abilities, enhancing their overall fitness and health. He said recreation programming can help combat the problems of juvenile delinquency, drug abuse, and general depression by highlighting new avenues of interest for youth of the community through the "Exercise the Right Choice" substance abuse awareness and prevention campaign.

He recognized staff and participants from the various Recreation Centers.

Vice-Mayor Moore proclaimed June 17-23, 1991 as "National Fun and Fitness Week" and presented a copy of the proclamation to Ben Wax.

D. Resolution No. 91-93 - Resolution of appreciation to Sheila Fellerath for her service as a member of the City of Asheville Civil Service Board.

Vice-Mayor Moore recognized Sheila Fellerath for her service as a member of the Civil Service Board.

Vice-Mayor Moore read the resolution.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 91-93 was unanimously adopted.

Resolution Book 18 - Page 437

Vice-Mayor Moore presented the resolution to Sheila Fellerath.

II. PUBLIC HEARINGS:

A. Public hearing relative to the partial rezoning of 1897 Hendersonville Road from R-2 Residential District to OI Office Institutional District.

Ordinance No. 1921 - Ordinance amending the Zoning Ordinance and the Zoning Map of the City of Asheville to provide for rezoning of a portion of property located at 1897 Hendersonville Road and presently identified as Ward 7, Sheet 110, Lot 12, of the Buncombe County Tax Maps and Records.

Mayor Michalove opened the public hearing at 4:15 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Carol Alberice, Urban Planner II, said the petitioner, George Morosani for M. Realty Limited Partnership, is requesting tri-zoning a rectangular lot along Hendersonville Road from R-2 Residential District to OI Office Institutional District. She reviewed the surrounding zoning and uses of property in the area. She said a 20' buffer would be required between the Office Institutional District and the R-2 Residential District. She said the 2010 Plan recommends commercial land use for this area.

She said the property has a history of rezoning requests. She said on September 6, 1989 the CH line was moved West 65 feet and on December 5, 1990 a request was made that the entire rear portion of the lot be rezoned from R-2 Residential District to OI Office Institutional District; however, the petitioner withdrew the request before the vote.

David Matney, Attorney representing the petitioner, said the property is under contract

with the Mediation Center. He spoke in support of the rezoning as requested.

Mayor Michalove closed the public hearing at 4:22 p.m.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Frank moved for the adoption of Ordinance No. 1921. This motion was seconded by Vice-Mayor Moore.

On a roll call vote of 7-0, Ordinance No. 1921 passed on first reading.

POLICE DEPARTMENT RECOGNITION

Police Chief Gerald Beavers said the Asheville Police Department has been named the 2nd Best Dressed Police Department Nationally. He said he was very proud of this award and he recognized members of the Police Department and the various uniforms used by the Police Department.

B. Public hearing relative to an ordinance amending Article 9 of Chapter 30 of the Code of Ordinances of the City of Asheville (Standards for Designating Historic Signs).

Mayor Michalove opened the public hearing at 4:29 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Gerald Green, Senior Planner, said this ordinance will establish standards for designating historic signs. He said the standards are as follows:

A. The sign is significant to the development and/or history of the City of Asheville and has existed at its original location for not less than forty (40) years;

B. The sign merits recognition as an important example of technology, craftsmanship, materials or design of the period in which it was constructed and it may no longer be economically

feasible to produce or manufacture the sign today;

C. The sign is/was a trademark sign or is/was an on-premise identification sign;

D. The sign is not significantly altered from its historic period.

E. The sign is structurally safe or is capable of being made so without substantially altering its historical significance.

F. If the sign has been altered, it must be restorable to its historic function and appearance utilizing original materials (wood, metal, or paint directly applied to buildings); and

G. The sign must be restored and maintained in a fashion that retains those significant elements that provide the designation. Historically designated signs that have been altered or not maintained so as to comply will all of these criteria shall be determined by the City Council, after a public hearing on the matter, to no longer constitute a historically significant sign. Upon such determination, the sign must comply with all provisions of Article 9 of Chapter 30, including specifically, but not limited to, the non-conforming provisions of Section 30-9-10 of the Code of Ordinances.

Upon inquiry of Mayor Michalove, Mr. Green said no one in particular was notified that Council would be considering this change relative to historical signs.

Mayor Michalove said during the public hearing relative to the adoption of the Sign Ordinance the owners of the Forest Manor Motor Lodge on Hendersonville Road, the owner of the Mountaineer Inn on Tunnel Road and a few others expressed an interest in preserving historical signs.

Councilman Price questioned whether or not a landmark sign would be different from a historical sign. It was indicated that the proposed ordinance does not make provisions for landmark signs - just signs that are historical and are significant to the development and/or history of the City of Asheville and has existed at its original location for not less than forty (40) years.

Mr. Green said landmark signs can be dealt with separately if the need arises.

Several Council members indicated a desire that specific individuals that expressed an interest in historic signs during the public hearing on the Sign Ordinance be notified of Council's proposed action before a vote is taken on the matter. He specifically mentioned the owner of the Forest Manor Motor Lodge on Hendersonville Road, the owner of Mountaineer Inn on Tunnel Road, and Harry's Cadillac Dealership on Patton Avenue.

Mike Moser, Chairman of the Planning and Zoning Commission, and Danie Johnson, member of the Planning and Zoning Commission said when the Commission reviewed this amendment it was determined that at the present time there are no signs that would fall into the criteria of the proposed ordinance due the age of the signs specified in the ordinance.

Councilman Price moved to continue the public hearing relative to standards for designating historic signs until July 8, 1991, without further advertisement, giving the Planning Department an opportunity to notify interested individuals that Council is considering this amendment. This motion was seconded by Vice-Mayor Moore and carried unanimously.

C. Public hearing relative to an ordinance amending Chapter 30 of the Code of Ordinances of the City of Asheville (Standards for placing Manufactured Homes on Individual Lots).

Ordinance No. 1922 - Ordinance amending Chapter 30 of the Code of Ordinances of the City of Asheville (Standards for Placing Manufactured homes on individual lots)

Mayor Michalove opened the public hearing at 4:44 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Gerald Green, Senior Planner, said The Manufactured Housing Subcommittee has, for the past year and a half, been examining the role of

manufactured housing in meeting the needs of City residents for affordable housing. Several tasks have been completed by the task force, including an overview of the need for affordable housing and an investigation of manufactured housing construction. Standards for manufactured homes which are to be placed on individual lots were developed by the Subcommittee to assure compatibility of manufactured homes with stick-built homes. These standards would apply to manufactured homes to replace existing mobile homes in the R-1 through R-4 Residential Districts and to all manufactured homes in the R-5 Residential District.

He outlined the proposed standards and said they were reviewed by the Asheville Planning and Zoning Commission at their meeting on May 1, 1991. After discussing the standards, the Commission recommended their adoption.

He said the Committee was made up of a representative from the Haw Creek Homeowner's Association, Kenilworth Homeowner's Association, Grove Park/Sunset Homeowner's Association, an owner of a manufactured home, the owner of a manufactured home operation, and a representative of a utility company.

Councilman Price questioned the provision for the manufactured home to be placed so that its longest side is parallel to the street. She said there are many places where the homes are not currently placed parallel to the street and there are places where it would not be feasible to make them parallel to the street.

Upon inquiry of Councilman Ellison, Mr. Green said the provisions outlined in the proposed ordinance are more stringent than standards required by the state.

Councilman Estes said he felt the proposed ordinance would make additional expenses for individuals wanting manufactured homes.

Mr. Green said he felt this ordinance would be a test case to see if the standards are acceptable and to see if the cost imposed by the ordinance would be prohibitive.

Several Council members indicated a desire to hear from members of the Subcommittee as well as manufactured home dealers. It was noted that the

manufactured home dealers were not notified of Council's intent to consider the ordinance.

Councilman Ellison said he would also like for the staff to check with other cities to see what standards they apply to manufactured homes. He said he would also like for the proposed ordinance to have more publicity.

Mayor Michalove closed the public hearing at 5:05 p.m.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Price moved for the adoption of Ordinance No. 1922. This motion was seconded by Councilman Frank.

On a roll call vote of 7-0, Ordinance No. 1922 passed on first reading.

Announcement - Funding for Asheville Transit Authority

Mayor Michalove said the City currently subsidizes the Asheville Transit Authority in the amount of $800,000. He said this amount does not include the cost of the transit buses. He said Council realizes the importance of the bus service. He said the Asheville Transit Authority recommended eliminating two routes and changing several others due to budget cuts. He said the Council has decided to fund the Asheville Transit Authority for at least six (6) months, until December 31, 1991, at a level in order not to reduce services at this time.

Mayor Michalove said the Council hopes a pending federal mass transit funding bill - which would go into effect with the new federal budget on October 1 - will take the financial strain off the City. He said if the bill passes, the federal government will supply half the total subsidy for the system.

Mayor Michalove said the Council would also be having a special work session by September to discuss the transit system funding.

III. OLD BUSINESS:

A. Ordinance No. 1923 - First reading of Ordinance amending Chapters 25 and 26 of the Code of Ordinances of the City of Asheville (Street Grades).

Gerald Green, Senior Planner said at their June 5, 1991, meeting, the Asheville Planning and Zoning Commission recommended approval of an amendment to Chapters 26 and 30 of the City's Code of Ordinances. The Commission has considered several proposed amendments over the past few months. Some of the proposed amendments were prepared by staff of the Fire, Public Works, and Planning Departments and the City Manager's Office. These amendments were revised based upon meeting with contractors, engineers, and other interested groups. In addition to the amendments prepared by staff, the Planning and Zoning Commission developed proposed amendments, including the one recommended for adoption. The recommended ordinance has the following characteristics:

A. A maximum grade of 12% is established for subdivision and group development streets; and

B. City Council, upon the recommendation of the Planning and Zoning Commission, is authorized to grant variances permitting street grades of 12.1% to 15%. The Board of Adjustment is authorized to grant variances permitting street grades of 15.1% to 18%.

Mr. Green said the Planning Staff has withdrawn their requests for establishing standards for street grades. He said a copy of the most recent proposed ordinance was presented to Ted Orr with the Home Builder's Association and there seems to be no real problem with the ordinance.

Mike Moser, Chairman of the Planning and Zoning Commission, said the recommendation of the Planning and Zoning Commission was unanimous and they did not want to make the street grade process complicated.

Charles Penny, Assistant City Manager, said the staff will use the staff recommended street grade standards in working with developers.

A discussion was held relative to the legality of Council imposing a maximum street grade of 18%. It was noted that the Board of Adjustment operates independently and could approve a street grade in excess of 18% and decisions made by the Board of Adjustment could be appealed to the Superior Court. It was also noted that the 18% would be a guideline and Council could not impose an absolute maximum.

Councilman Price moved to amend the proposed ordinance to provide for the following: "Grades on street profiles in subdivisions shall be approved by the Department of Public Works, but they shall not exceed eight percent (8%) for arterial streets and roads and twelve percent (12%) for collector and local residential streets and roads. City Council upon recommendation by the Planning and Zoning Commission may approve a variance up to 15% for local residential streets. Upon granting of a variance by the Board of Adjustment local residential streets may be approved with grades between 15% and 18%.

Councilman Ellison made a substitute motion to amend the proposed ordinance to provide for the following: "Grades on street profiles in subdivisions shall be approved by the Department of Public Works, but they shall not exceed eight percent (8%) for arterial streets and roads and twelve percent (12%) for collector and local residential streets and roads. City Council upon recommendation by the Planning and Zoning Commission may approve a variance up to 15% for local residential streets. Upon granting of a variance by the Board of Adjustment local residential streets may be approved with grades in excess of 15%. This motion was seconded by Councilman Bratton, which motion carried on a voice vote of 4-3 with Mayor Michalove, Councilman Ellison, Councilman Bratton, and Councilman Estes voting "aye".

Councilman Ellison moved for adoption of Ordinance No. 1923 as amended. This motion was seconded by Councilman Bratton.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

On a roll call vote of 7-0, Ordinance No. 1923, as amended, passed on first reading.

B. Ordinance No. 1924 - First reading of Ordinance amending Chapter 30 of the Code of Ordinances of the City of Asheville (Street Grade Requirements).

Gerald Green, Senior Planner, said this ordinance provides for street grade requirements to be applicable to group developments.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Ellison moved for the adoption of Ordinance No. 1924. This motion was seconded by Councilman Frank.

On a roll call vote of 7-0, Ordinance No. 1924 passed on first reading.

C. Ordinance No. 1909 - Second reading of Ordinance amending Chapters 26 and 30 of the Code of Ordinances of the City of Asheville (Hillside Development Requirements).

Gerald Green, Senior Planner, said this ordinance will amend the Hillside Development Requirements as set forth in Ordinance No. 631. The proposed amendments would assure that graded areas are distributed through out the site, where feasible, and extend the Hillside Development Regulations to Subdivisions.

Mayor Michalove said the ordinance was previously read on first reading and will not be reread in its entirety.

On a roll call vote of 7-0, Ordinance No. 1909 passed on second reading.

D. Ordinance No. 1917 - Third reading of Ordinance amending Section 30-1-3 of the Code of Ordinances of the City of Asheville (Territorial and Extraterritorial Jurisdiction of Zoning Ordinance).

Mayor Michalove said the Asheville Planning and Zoning Commission has recommended that the area specified as the "West Area" be included in the City's extraterritorial zoning jurisdiction and that specific zoning classification be assigned to the property. The action specified was acted upon

at a special meeting held on March 6, 1991. This ordinance passed on first reading on May 21, 1991 and on second reading on June 4, 1991.

Mayor Michalove said the ordinance was previously read on second reading and will not be reread in its entirety.

On a roll call vote of 7-0, Ordinance No. 1917 passed on third and final reading.

Ordinance Book No. 12 - Page 369 - 378

E. Further discussion relative to demolition or stabilization of 32 Broadway.

Mayor Michalove said The Preservation Society of Asheville and Buncombe County has made a proposal for the preservation of the building at 32 Broadway.

Jim Samsel, from the Preservation Society, Revolving Loan Fund, said the City stands to loose considerable tax revenue if the building is demolished and the property stands vacant - approximately $5,000 over a 10-year period. The City will also be required to invest additional staff time (estimated at $3,200) into the project before a resolution with the current owner is reached. If forced demolition is required, it is unclear whether the City could place a lien against the property for the demolition costs.

Mr. Samsel said as an alternate to continuing the arduous legal/administrative process, the Preservation Society urges the City to reallocate its resources and join them in stabilizing the building. He said the property can be marketed to a private developer and fully rehabilitated within 3 years.

Mr. Samsel indicated that prior to marketing, however, the building needs selective demolition, structural stabilization and a roof. The Preservation Society is prepared to invest $25,000 beyond the acquisition cost. He said they have requested that the City match them on a 1:5 ratio with $5,000 grant for demolition and hazardous material abatement.

Mr. Samsel also indicated that $5,000 investment will net the City $3,200 or more over a ten-year period. More importantly, this project will demonstrate the potential of a "partnership"

between the City and a non-profit corporation that may prove to be a useful model for similar projects in the future.

Councilman Ellison moved that City Council commit to match the Preservation Society on a 1:5 ratio, not to exceed $5,000, for the preservation of the building at 32 Broadway; provided further that the City Attorney, City Manager, and Jim Samsel with the Preservation Society, work out the details and prepare the necessary documents necessary to accomplish this commitment; provided further that the documents be considered by Council on July 8, 1991. This motion was seconded by Councilman Price and carried unanimously.

F. Ordinance adopting the City of Asheville Annual Budget for 1991-92.

The City Manager said this action will adopt the Fiscal 1991/92 Annual Operating Budget and sets the tax rate at $.60 per $100 assessed valuation for the City of Asheville.

Mayor Michalove said Council would take comments on the Budget at today's meeting; however, action would not be taken until the June 25, 1991 meeting pending the approval of the state budget which is expected within the next week. He said the city depends on sales tax, beer and wine tax and other taxes, from the state. He said how the state appropriates these taxes will affect the City Budget.

Minnie Jones spoke in support of funding for the Asheville Transit System.

Lanier Cansler, representing CIBO (Council of Independent Business Owners) reiterated CIBO's concerns about the proposed budget.

Mr. Cansler said they would again request that the Council consider contracting for some city services to save money. He specifically mentioned Private Waste Collection and Private Park Maintenance. He said they felt the Public Relations Department budget could be cut by $100,000. He said they strongly suggest that the City put plans for the New Public Works Complex on hold until the privatization has been studied. He said this delay could produce significant short term savings.

Mr. Cansler again recommended that the City appoint a study commission to determine the efficiency of its operations. He said the County had appointed a Reorganization Commission and he presented a copy of a report to the 1991 Buncombe County Board of Commission entitled "Reorganization and Management of Buncombe County Government Study Commission" for Council's review.

Mr. Cansler also presented a number of petitions, containing some 5,000 signatures, requesting that the tax rate of sixty ($.60) cents be changed to fifty-four ($.54) cents.

Mr. Cansler also read the following questions and comments relative to the budget:

"On page #34, the words "secure financing" and on page #44 "debt funding" are used.

How much will this facility really cost in 91-92? We urge you to put this cost off.

On page #37, under 1990-91 Statement of Achievements #6 if processed claims filed against the City has been transferred from legal services to Risk Management Office - why is there no cut in personnel? Also legal litigation appears to be decreasing.

On page #37 - Where is outside legal fees - how much is budgeted.

Page 38 - Under salaries and wages for Audit and Budget there appears to be greater than a 10% increase in salaries and wages - why?

Page 38 - How much extra does it cost the City to prepare its annual operating budget to GFOA award standards? Do you need the extra expense?

Page 40 - How much does it cost to prepare the fourth annual report for the City of Asheville? Do we need this extravagance?

Page 40 - How much does it cost to prepare the history of the City Manager form of government? Do we really need this? Do we need this extravagance?

Page 40 - I would like to congratulate you for eliminating the bi-monthly information and event flyer which was to have been placed in water bills - it really was not needed.

Page 44 - Under 1990-91 Statement of Achievements, we would request that the upgrade of gasoline/service facility be deferred while you look at privatization.

Page 52 - Under #6, we would ask that you consider privatization and not buy new equipment until studies are completed.

Page 150 - why is the Civic Center losing two museums and still increasing the total staffing from 63-65?

Finally, I would like to give you an article form the "The State" newspaper in Columbia S. C. regarding privatization. This is truly the new wave of City service. You save money and keep services at the same time."

Mayor Michalove said he was upset when CIBO called for a 10 percent across-the-board tax cut in January, but he now welcomed CIBO's attention since it has backed away from trying to get a referendum on the budget and instead put forward constructive cost-saving suggestions.

Mayor Michalove said it is too late to incorporate the suggestions in the 1991-92 budget, but the Council would look at these suggestions during their mid-year retreat in August.

Albert Sneed said if Council could not implement these suggestions then Council should at least look at the philosophy behind the suggestions.

Al Whitesides, President of the Board for the YMI Cultural Center, spoke in support of the requested funding for the YMI Cultural Center.

During the discussion relative to the YMI Cultural Center funding, Council requested additional information from the YMI such as: 1) In a document given to the City the YMI requested $26,000 for a Minority Loan Pool Coordinator; and $24,650 for Economic Development; however the YMI requested total funding of $62,595. - Why the difference? 2) Requested that the YMI Cultural Center Auditor furnish Council with an explanation of a copy of a letter furnished to members of Council that indicated a negative audit impact for the YMI Cultural Center.

Albert Sneed again requested that Council reconsider holding off on the construction of the Public Works Complex. He said it has been indicated that the City in the near future will have to fund $120 million for infrastructure needs and these funds will have to come from somewhere.

Mayor Michalove said Council would consider the Budget Ordinance at next week's meeting on June 25, 1991 and it is hopeful that the State will adopt their budget within that time frame.

IV. NEW BUSINESS:

A. Ordinance No. 1925 - Budget amendment to appropriate 17th Year CDBG Entitlement Grant Funds.

The City Manager said the City has received approval from HUD for the Seventeenth Year CDBG program in the amount of $1,214,000. Program income is estimated to be $58,000. The allocation of these funds were approved by City Council on May 21, 1991. This ordinance will appropriate the funds into the budget for the year beginning July 1, 1991.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Ellison moved for the adoption of Ordinance No. 1925. This motion was seconded by Vice-Mayor Moore.

On a roll call vote of 7-0, Ordinance No. 1925 passed on first and final reading.

Ordinance Book 12 - Page 444

B. Ordinance No. 1926 - Budget amendment to appropriate CDBG Funds for the Hillcrest Enrichment Program.

The City Manager said this action will appropriate CDBG funds for the Hillcrest Enrichment Program. The program is designed to increase opportunity and self-esteem of public housing youth. The program will be administered by the Housing Authority and expanded to include all public housing communities in the City. The amount of the budget amendment is $10,000 of CDBG Supplemental funds and reallocation of $10,000 existing CDBG Contingency and surplus funds.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Price moved for the adoption of Ordinance No. 1926. This motion was seconded by Vice-Mayor Moore.

On a roll call vote of 7-0, Ordinance No. 1926 passed on first and final reading.

Ordinance Book 12 - Page 445

C. Resolution No. 91-94 - Resolution authorizing the submission and execution of an application to the U.S. Department of Housing and Urban Development for Rental Rehabilitation Program Funds.

The City Manager said the application is for $29,000 of Rental Rehabilitation funds. These funds will be matched by private funding for the rehab of approximately four units of rental property for low-moderate income tenants. The project is administered by the Housing Authority under contract with the Community Development Division.

Mayor Michalove said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Vice-Mayor Moore, seconded by Councilman Frank, Resolution No. 91-94 was unanimously adopted.

Resolution Book No. 18 - Page No. 438

D. Resolution No. 91-95 - Resolution authorizing the City Manager of the City of Asheville to enter into a lease agreement for the City for use of the athletic fields at Bullman Park on New Haw Creek Road from East Asheville Youth Association.

The City Manager said this resolution will authorize the execution of a lease agreement for the use of the facilities owned by the East Asheville Youth Activities, Inc. The Asheville Parks and Recreation Department has used the athletic facility located on New Haw Creek and Bell Roads for youth recreational purposes since 1976. This cooperative arrangement has proven to be very beneficial to the residents in the East Asheville area and to the City of Asheville.

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Mayor Michalove said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Vice-Mayor Moore, seconded by Councilman Price, Resolution No. 91-95 was unanimously adopted.

Resolution Book No. 18 - Page No. 439

E. Resolution No. 91-96 - Resolution authorizing the City Manager to execute an amended contract with the Land-of-Sky Regional Council.

The City Manager said the existing contract with Land-of-Sky Regional Council for transportation planning services expires on June 30, 1991. The contract amendment provides a ceiling of $74,600 which is needed to conduct the transportation planning program in FY 1992 (July 1, 1991 - June 30, 1992). Major work elements for FY 1992 approved by the Transportation Advisory Committee on February 13, 1991 include: The Thoroughfare Plan update; corridor planning for Hendersonville Road and Broadway Ave.; base map updating; the development of right-of-way preservation procedures and environmental analysis of alternate transportation plans. The contract amendment increases the ceiling on the amount the Land of Sky Regional Council by $4,600 over last year. The City's share of the amended contract cost is $11,190 (15%).

Mayor Michalove said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Price, seconded by Vice-Mayor Moore, Resolution No. 91-96 was unanimously adopted.

Resolution Book No. 18 - Page No. 440

G. Ordinance No. 1927 - Ordinance amendment for year-end adjustments.

The City Manager said this budget amendment is to incorporate final "clean up" budget revisions into the accounting system.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Frank moved for the adoption of Ordinance No. 1927. This motion was seconded by Vice-Mayor Moore.

On a roll call vote of 7-0, Ordinance No. 1927 passed on first and final reading.

Ordinance Book 12 - Page 446

V. CONSENT:

A. Scheduling public hearing relative to rezoning property on Swannanoa River Road for July 8, 1991.

B. Scheduling public hearing relative to rezoning property on Leicester Highway and County Home Road for July 8, 1991.

C. Resolution No. 91-97 - Resolution appointing member to the Asheville Tree/Greenway Commission.

SUMMARY: Appointment of Leni Sitnick for a three year term, term expiring August 1, 1994.

Resolution Book No. 18 - Page 441

D. Resolution No. 91-98 -Resolution appointing member to the Buncombe County War on Drug Commission.

SUMMARY: Reappoint of Arthur Eddington, term expires July 1, 1994.

Resolution Book No. 18 - Page 442

E. Resolution No. 91-99 - Resolution appointing members to the Motion Picture Operators Board of Examiners.

SUMMARY: Reappointment of Roy B. Gibbs and William P. Suddereth, terms expiring July 1, 1993.

Resolution Book No. 18 - Page 443

F. Resolution No. 91-100 - Resolution appointing members to the Board of Electrical Examiners.

SUMMARY: Reappointment of Frank Davis, Harvey Burleson, Walter J. Harlow, Jonathan D. Smith, and Malachie Cromartie, terms expiring July 1, 1993.

Resolution Book No. 18 - Page 444

G. Resolution No. 91-101 - Resolution appointing members to the Recreation Board for Asheville.

SUMMARY: Reappointment of Nancy Boland, Carolyn Tingle, and Marvin A. Nockow, terms expiring June 30, 1994.

Resolution Book No. 18 - Page 445

H. Resolution No. 91-102 - Resolution appointing members to the Asheville-Buncombe Historic Resources Commission.

SUMMARY: Reappointment of Richard Mathews, term expiring July 1, 1994 - Appointment of Randee Goodstadt, term expiring July 1, 1994 - Appointment of Bruce Johnson, term expiring July 1, 1992.

Resolution Book 18 - Page 446

I. Resolution No. 91-103 - Resolution appointing members to the Asheville Area Civic Center Commission.

SUMMARY: Reappointment of Joe Eblen and Rankin Hipp, term expiring June 30, 1994 - Appointment of B. Allan Culberson, term expiring June 30, 1994.

Resolution Book 18 - Page 447

J. Resolution No. 91-104 - Resolution appointing members to the Board of Adjustment.

SUMMARY: Appointment of Jeff Dave as a Regular member, term expiring January 21, 1993 - Appointment of Ernest I. Melin, term expiring January 21, 1992.

Resolution Book No. 18 - Page 448

K. Resolution No. 91-105 - Resolution appointing member to the Downtown Commission.

SUMMARY: Appointment of Donald Harrison to serve the unexpired term of Ed MacFarland

Resolution Book No. 18 - Page 449

L. Motion to authorize the City Manager to execute a letter of indemnification/hold harmless to be given

to Landmark Management, Inc. and Pack Plaza Associates Limited Partnership.

SUMMARY: Authorize City Manager to execute letter of indemnification to be given to Landmark Management, Inc. to permit City to use top level of parking deck for fireworks display on 4th of July.

M. Motion to reschedule July 9, 1991, City Council Meeting to Monday, July 8, 1991.

Upon motion of Councilman Frank, seconded by Vice-Mayor Moore, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

A. Report of Group Development Actions by Planning and Zoning Commission

Patty Tallerday, Acting Planning Director, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. He said in accordance with the new procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. He said the following action was taken by the Planning and Zoning Commission at their meeting on June 5, 1991.

(1) WESTERN NORTH CAROLINA BAPTIST HOME EXPANSION ON RICHMOND HILL DRIVE

Patty Tallerday said the Asheville Planning and Zoning Commission on June 5, 1991, reviewed and approved the site plan of Western North Carolina Baptist Home Expansion on Richmond Hill Drive subject to the following contingencies:

1) Receipt of approval letters for water availability and sanitary sewer allocation;

2) Approval by City Street Division for the proposed driveway entrance.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

(2) LEICESTER HIGHWAY SHOPPING CENTER (RESUBMITTAL)

Patty Tallerday said the Asheville Planning and Zoning Commission on June 5, 1991, reviewed and approved the site plan of Leicester Highway Shopping Center (Resubmittal) subject to the following contingencies:

1) Developer contact the NCDOT to assure that there are no conflicts between the proposed development and the planned widening of Leicester Highway (NC63); and

2) Approval of driveway permit and right-of-way encroachment for storm water drainage facilities within the Leicester Highway right-of-way by NCDOT; and

3) Receipt of a revised water availability letter.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

B. Councilman Frank - Comments Relative to Design Review Committee and CDBG Committee

Councilman Frank noted that the Design Review Committee would be meeting on Friday, June 28, 1991.

Councilman Frank said if Mayor Michalove wanted to continue with the Community Development Block Grant Committee that she would like for them to meet as soon as possible to evaluate the procedure used to prioritize funding request.

C. CLAIMS - Diane Roberts (Parks) - Amy Bumpus (Police) - Robert Lee Hood (Police) - Melvin McKinney (Water) - Joseph McGuire (Water) - Mrs. Raymond Pearson (Water) - Joan Buchanan (Water) -Billy Ray Smallwood (Water) - Clifford Featherstone (Water) - Keith Falconer (Water) - David Hollowell (Water) - J. E. Patton (Water) - Mike Coin (Water) - Nell Tipton (Water) - Rita Bradley (Streets) - Mickey Fisher (Water) - Dwight Crawford (Sanitation) - Billie Riddell (Water)

The City Manager said claims were received from Diane Roberts, Amy Bumpus, Robert Lee Hood, Melvin McKinney, Joseph McGuire, Mrs. Raymond Pearson, Joan Buchanan, Billy Ray Smallwood, Clifford Featherstone, Keith Falconer, David Hollowell, J. E. Patton, Mike Coin, Nell Tipton, Rita Bradley, Mickey Fisher, Dwight Crawford, and Billie Riddell.

Mayor Michalove said the claims have been referred to the appropriate insurers for investigation.

VII. ADJOURNMENT:

Mayor Michalove adjourned the meeting at 7:50 P.M.

H. M. Michalove
MAYOR

William F. Malcolm
CITY CLERK

Tuesday - June 25, 1991 - 2:00 P.M.

Work Session Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Norma T. Price, Mary Lloyd Frank, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; City Manager Douglas O. Bean; and Deputy City Clerk Carol Hensley.

Absent:

REQUEST FROM BUNCOMBE COUNTY HEALTH DEPARTMENT - SCHEDULING OF PUBLIC HEARING RELATIVE TO GRANT FOR ADOLESCENT PREGNANCY PREVENTION PROGRAM

Mayor Michalove said he had received a letter from Dr. Tenney from the Buncombe County Health Department requesting that the City Council schedule a public hearing relative to grant funds for an Adolescent Pregnancy Prevention Program or to designate another public body to conduct the public hearing. He said before the Buncombe County Health Department can receive the grant funds the Division of Environmental Health requires that a public hearing be held and a Statement of Community Support be included with the grant package.

Mayor Michalove said this program will strictly be for the Asheville City Schools.

After discussion, Vice-Mayor Moore moved that Council designate the Asheville City Board of Education to hold the public hearing relative to grant funds for the Adolescent Pregnancy Prevention Program and that they issue a Certificate of Community Support. This motion was seconded by Councilman Ellison and carried unanimously.

ORDINANCE NO. 1928 - AN ORDINANCE ADOPTING AN INTERIM BUDGET FOR THE CITY OF ASHEVILLE FOR THE PERIOD JULY 1, 1991 TO JULY 31, 1991

Mayor Michalove said the State has not yet approved their budget for the coming year. He said the State budget affects 1/3 of the City's

tax rate and is very important to the City's Budget. He recommended that Council delay action on the adoption of the Annual Budget for 1991-92 and adopt an interim budget for 30 days in hopes that the State will adopt their budget in the near future. He said if Council adopted the Annual Budget fixing the tax rate and the State decided to cut local funding this would have a major impact on the budget.

A lengthy discussion was held relative to the advantages/disadvantages of adopting of an interim budget.

Mayor Michalove moved that Council proceed with the adoption of an interim budget for July 1, 1991 through July 31, 1991. This motion was seconded by Vice-Mayor Moore, which motion carried on a voice vote of 4-3, with Mayor Michalove, Vice-Mayor Moore, Councilman Bratton and Councilman Frank voting "aye".

On a roll call vote of 7-0, Ordinance No. 1928 passed on first and final reading. (It was noted that the minutes reflect that the ordinance was adopted unanimously)

The City Manager presented the following report in answer to the questions CIBO presented to members of Council on June 18, 1991 relative to the proposed Annual Budget for 1991-92.

BUDGET QUESTIONS

1. The Mayor has been quoted as saying that the City has been saving for the Public Works Complex since 1980.

   On page #34, the works "secure financing" and on page #44 "debt funding" are used.

   How much will this facility really cost in 91/92? We urge you to put this cost off.

   - o The Capital Reserve Fund is used to help plan for major purchases and replacements of Capital. The City began to plan to replace the "Barn" and build the Public Works Complex in the early 1980's. As of June 30, 1991, a total of $744,000 has been appropriated to this project. A portion of this money has been used to pay "up front" cost of planning, design and site preparation. Bids for the project total $4,261,000. Because of favorable interest

rates the city will borrow a total of $4,900,000 for the project. Any extra funds will be used to pay for the upgrade to the service station and off road equipment bays at the city garage.

2. On page #37, under 1990-91 State of Achievements #6 if processed claims filed against the City has been transferred from Legal Services to Risk Management office -- why is there no cut in personnel? Also Legal litigation appears to be decreasing.

   - Claims processing took small part of one secretary's time -- other duties assigned. No new personnel added to Risk Management as result of transfer.

   - Litigation is not decreasing.

3. On page #37, -- Where is outside legal fees -- how much is budgeted?

   - $78,000 budgeted for outside legal fees.

4. Page #38 -- Under salaries and wages for Audit and Budget there appears to be greater than a 10% increase in salaries and wages -- why?

   - Audit & Budget Salaries -- Actual increase 1990/91 budget to 1991/92 budget is 6.5%. This increase includes reclassification of a secretary to secretary Sr. The 1990/91 estimated expenditures are below budget because of a vacant part-time internal auditor position.

5. Page #38 -- How much extra does it cost the City to prepare its annual operating budget to GFOA award standards? Do your need the extra expense?

   - GFOA Award - The Annual Operating Budget is reviewed by a panel of experts to judge its effectiveness as a Policy Document, Financial Plan, Operations Guide and Communications Device. Among other criteria, the budget must be in a format suitable for use by the public and media and be presented in a manner as to be understood by the reasonably informed reader.

     - Cost to submit $300 per year.

6. Page #40 -- How much does it cost to prepare the fourth annual report for the City of Asheville? Do we need this extravagance?

- o Annual Report - The purpose of the annual report is to provide a brief picture of the financial condition and major activities and accomplishments of City government for the fiscal year.

  - Cost to prepare $7,500 per year.

7. Page #40 -- How much does it cost to prepare the history of the City Manager form of government? Do we really need this? Isn't it another extravagance?

   - o Information on this history has already been assembled.

     - Cost to print this information $850.

8. Page #44 -- Under 1990/91 Statement of Achievements, we would request that the upgrade of gasoline/service facility be deferred while you look at privatization.

   - o Service Station upgrade -- L.U.S.T. required! Adding ATA Buses. Parks and Sanitation only small part of vehicles served, -- Privatization of Sanitation and Parks Maintenance would have no effect on need!

9. Page #52 -- Under # 6, we would ask that you consider privatization and not buy new equipment until studies are completed.

   - o Capital items will not be purchased if we decide to privatize.

10. Page #150 -- Why is the Civic Center losing two museums and still increasing the total staffing from 63-65?

    - o Civic Center does not staff museums. Staffing for the most part is event personnel.

The City Manager also presented the following report in response to CIBO's proposals to cut spending and save taxes, without any reduction in services:

Memorandum To: Mayor Michalove and Members of City Council

From: Douglas O. Bean, City Manager

Subject: Budget Questions

Date: June 25, 1991

Attached is a response to a number of specific questions that were raised by CIBO at last week's City Council Meeting. I trust that the answers provided will clarify the expenditures in each of these areas.

In addition, some comment is called for on the proposals that were presented in CIBO's previous presentation to City Council entitled "Council of Independent Business Owners Proposal to Cut Spending and Save Taxes, Without Any Reduction in Services."

Proposal 1 - Privatize Sanitary Waste Collection:

There are a number of municipal services that have been very successfully privatized. Solid waste collection is one where there has been some success. We know of a number of cities where privatization of solid waste collection has worked very well, but there are also those cases where it has not proven to be effective.

There is a growing trend among cities to look very carefully at those areas where the private sector can provide a service at a lower cost. There are services, however, where cost is not the only factor, and municipalities have chosen not to turn these over to the private sector. This topic certainly deserves more attention in specific areas, and the staff would be willing to do additional research for the City Council.

Privatization is not foreign to the City of Asheville since we currently contract for services such as management of the transit system, janitorial services, street paving, sidewalk construction, pothole patching, school crossing guards, telephone maintenance and many other services.

While there are advantages and disadvantages to privatization, some of the savings that were stated in the CIBO proposal may be excessive. In the area of solid waste collection, the private hauler currently operating in the County charges $11.50 per month. We have received a proposed contract to pick up solid waste in the annexed areas for the same $11.50 per month. Our current Sanitation Division provides solid waste collection at $9.16 per month. The City's rate includes not only weekly garbage collection, but also additional pick ups for limbs, yard trash, dead animals, etc. The $9.16 also provides a reserve for equipment replacement. Naturally, should a private hauler have the contract for the entire City, the costs should drop based on the number of pick ups, but it is hard to believe that cost savings would be of the magnitude of a million dollars a year.

Proposal 2 - Privatized Park Maintenance:

Even though park maintenance has been privatized in some areas, it is hard to compare the City's cost to that of other budgets, and certainly difficult to compare it to the cost of maintaining a municipal golf course. Comparing park maintenance per acre to a golf course ignores the fact that (1) parks and rights-of-way that are maintained are located throughout the City and not in a single location; and (2) Parks' maintenance costs includes utilities, service and maintenance of 45 buildings totalling 650,000 square feet. Buildings' maintenance and transporting of employees, equipment, and supplies to a large number of locations is much more expensive than maintaining any single site.

Proposal 3 - Reduce Public Information Budget:

The Public Information Budget Office funds three (3) separate activities. First, the Public Response Center has two full-time employees and one part-time employee handling over 40,000 calls per year requesting information and/or service. Citizens in Asheville can call one central number and receive information or make a request for service without having to guess which is the appropriate department. All calls for service are logged on a computer and tracked through the system. A response card is sent to all individuals who call the City requesting a service and the responses are tabulated and shared with various departments.

The Public Information Director is responsible for supervising the activities of the Print Shop. The Print Shop is a self-supported activity that provides printing services for City departments and other non-profit agencies in the City. The Public Information Director is also responsible for a variety of public information activities such as producing the road work alert, press releases, annexation information, snow information, leaf pick up schedules, informational brochures, the annual report, weekly council media packages, event planning, emergency response, and other areas that deal with providing necessary information to citizens.

One of the City Council goals that was identified in 1991 was to improve our public relations. In last year's budget, a new position of Public Information Aid was recommended in a service enhancement so that more timely information could be delivered to the public. Activities such as a monthly newsletter to the public and more informational pamphlets were to be created. Instead of funding these activities, a study of the City's Public Information system was conducted by the Public Relations Association of Western North Carolina. The results of their study indicated that the City was doing a fairly good job with providing public information, but that a new employee was needed so that more timely information could be provided to the public. Based on budget constraints, we have not been able to include any

additional funding for this activity. I fear that we will not be able to meet one of the needs identified by the City Council and one of the needs that we hear time and time again from the public, for more information on City activities and issues.

Proposal 4 - Delay Construction of a Public Works Complex:

The Public Works Complex involves an administration building for all of public works personnel that are currently scattered throughout the City and equipment sheds for various pieces of public works' equipment. Should sanitation services be privatized, there is still a need for these facilities. Even if there is excess space available, there are other needs of the City, and a delay in constructing this building could add hundreds of thousands of dollars. We have received excellent bids due to the downturn in the construction industry and since interest rates are low at this point in time.

Proposal 5 - Create an Efficiency Study Commission:

Like any business, the City needs to constantly seek ways to become more efficient. Perhaps we have failed in the past to communicate this to the public and to explain some of the efforts that we have undertaken in the past several years. At the present time, there is a full-time industrial engineer on staff with the City. This individual spends a hundred percent of his time on efficiency studies that have resulted in hundreds of thousands of dollars in cost reductions and in improved work methods that allow us to be much more effective. In addition to our in-house efforts, there have been a number of consultant studies that have reviewed our operations such as the vehicle utilization report that saved over $750,000 in reduced needs for equipment and a public works efficiency study that resulted in improved work methods, reorganizing work crews, and a reduction or reassignment of 14 Opersonnel.

While a group of individuals from other businesses could certainly provide some assistance in improving efficiency, we have been working internally on developing quality improvement teams within our work force. There is a considerable amount of literature on the successes that have resulted from bringing together groups of employees to receive their input on how a job can be better performed. We have been very successful in the past with involving employee groups in solving problems and believe that this approach would not only have the advantage of increasing efficiency and effectiveness, but would also create a sense of ownership among employees who are charged with performing various tasks.

The Buncombe County study that was presented at the City Council Meeting was described as being an efficiency study, but upon review, it is simply a study and recommendations on reorganization. I do not believe that our organization at the present time needs to be restructured so much as it needs to involve employees in developing a spirit of innovation and excellence in the work place.

The above responses to the CIBO proposals are only meant to serve as an overview of the staff's initial thoughts on these items. At the Council's direction, we would be happy to further pursue any of these items.

Mayor Michalove indicated that Council would be discussing these issues during their mid-year retreat in August.

RESOLUTION NO. 91-106 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE PLANNING AND ZONING COMMISSION

Mayor Michalove presented a resolution appointing Harriett Winner and Micheal Freeman as members of the Planning and Zoning Commission.

Upon motion of Vice-Mayor Moore, seconded by Councilman Price, Resolution No. 91-106 was unanimously adopted.

Resolution Book 18 - Page 456

RESOLUTION NO. 91-107 - RESOLUTION APPOINTING MEMBERS TO THE CARRIAGE PERMIT ADVISORY BOARD

Mayor Michalove presented a resolution appointing Mrs. Virginia S. Schmidt, June Grant, Pat Haner, and Ann Stuart, DVM as members of the Carriage Permit Advisory Board.

Upon motion of Vice-Mayor Moore, seconded by Councilman Price, Resolution No. 91-107 was unanimously adopted.

Resolution Book 18 - Page 457

RESOLUTION NO. 91-108 - RESOLUTION APPOINTING MEMBERS TO THE RECREATION BOARD

Mayor Michalove presented a resolution appointing Octavia Caldwell as a member of the Recreation Board.

Upon motion of Vice-Mayor Moore, seconded by Councilman Price, Resolution No. 91-108 was unanimously adopted.

Resolution Book 18 - Page 458

RESOLUTION NO. 91-109 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE-BUNCOMBE FAIR HOUSING COMMISSION

Mayor Michalove presented a resolution appointing Joyce Harrison as a member of the Asheville-Buncombe Fair Housing Commission.

Upon motion of Vice-Mayor Moore, seconded by Councilman Price, Resolution No. 91-109 was unanimously adopted.

Resolution Book 18 - Page 459

EXECUTIVE SESSION

Councilman Ellison moved that Council go into executive session to discuss a legal matter. This motion was seconded by Vice-Mayor Moore and carried unanimously.

ADJOURNMENT

Mayor Michalove adjourned the meeting.

H. M. Michalove
MAYOR

William F. Holcott
CITY CLERK

Tuesday - July 2, 1991 - 4:00 P.M.

Regular Meeting

NO MEETING

CANCELLED - INDEPENDENCE DAY

W. H. Nicholson
MAYOR

William F. Walcott
CITY CLERK

Monday - July 9, 1991 - 4:00 p.m.

Regular Meeting

Present: Vice-Mayor William G. Moore, Presiding; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, and Eugene W. Ellison; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott

Absent: Mayor Kenneth M. Michalove and Councilman William W. Estes.

Mayor Michalove voted by telephone on several items as indicated in the minutes.

INVOCATION

The invocation was given by Councilman Ellison.

APPROVAL OF MINUTES

Vice-Mayor Moore announced the approval of the minutes of the June 18, 1991 and June 25, 1991 meetings as submitted.

I. PROCLAMATIONS:

A. **Resolution No. 91-110 - Resolution recognizing employees transferred to MSD.**

Vice-Mayor Moore read the resolution stating that as a part of the consolidation agreement between MSD and the City of Asheville, 32 employees from the City of Asheville's Wastewater Collection Division were transferred to MSD on July 1, 1991.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 91-110 was unanimously adopted.

Vice-Mayor Moore presented the resolution to Tom Tarrant.

Resolution Book No. 18 - Page 454

B. **Presentation of "Certificate of Achievement for Excellence in Financial Reporting."**

The City Manager said the Government Finance Officers Association has awarded the City of

Asheville a "Certificate of Achievement for Excellence in Financial Reporting" for the Comprehensive Annual Financial Report (CAFR) for the fiscal year ended June 30, 1990. The Association has awarded the "Financial Reporting Achievement" to Larry Fisher. The Certificate of Achievement is the highest form of recognition in governmental accounting and financial reporting, and its attainment represents a significant accomplishment by the government and its management.

He said this was the eleventh year the City of Asheville Finance Department has received this award.

He presented the certificate to Larry Fisher, Director of Finance.

C. Resolution No. 91-111 - Resolution of appreciation to the Land-of-Sky Regional Council.

Vice-Mayor Moore read the resolution commending the Land-of-Sky Regional Council for their 25 years of accomplishment for this region providing expanded population and economic base and Bob Shepherd personally for his excellent and constructive contributions to the region and its citizens.

Upon motion of Councilman Price, seconded by Councilman Ellison, Resolution No. 91-111 was unanimously adopted.

Vice-Mayor Moore presented the resolution to Bob Shepherd, Executive Director of the Land of Sky Regional Council.

Resolution Book No. 18 - Page 455

D. Resolution No. 91-112 - Resolution of appreciation to Jake Wicker.

Vice-Mayor Moore read a resolution commending Jake Wicker on his retirement from the Institute of Government UNC-Chapel Hill.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 91-112 was unanimously adopted.

Resolution Book No. 18 - Page 456

48-B

III. OLD BUSINESS:

A. Ordinance No. 1923 - Second reading of Ordinance amending Chapters 25 and 26 of the Code of Ordinances of the City of Asheville (Street Grades).

Vice-Mayor Moore said this ordinance establishes a maximum grade of 12% for subdivision and group development streets without a variance and authorizes City Council to grant variances for grades of 12.1% to 15% and authorizes the Board of Adjustment to grant variances for grades in excess of 15%. This ordinance passed on first reading on June 18, 1991.

Vice-Mayor Moore said the ordinance was previously read on first reading and will not be reread in its entirety.

On a roll call vote of 4-1, Ordinance No. 1923 passed on second reading with Vice-Mayor Moore voting "no".

B. Resolution No. 91-114 - Resolution approving the bids for the construction of the Public Works Complex.

Mayor Michalove joined Council, by telephone, to vote on this issue.

The City Manager said on June 6, 1991, separate bids were received for the general work, electrical wiring and installation, plumbing and gas fittings and accessories and heating, ventilating, air conditioning and accessories components for construction of the Public Works Complex.

He said three (3) bids were not received for each of the plumbing and gas fittings and accessories, and heating, ventilating, air conditioning and accessories components for the project.

He said the City therefore re-bid those components and those second bids were received on June 18, 1991.

He said Spaceplan Architects have reviewed the bids and has recommended that the bids be awarded for the combined projects to the lowest responsible bidders as follows:

General Work

Argo Construction Co., Inc. Greenville, South Carolina	$3,248,000

Plumbing and Gas Fittings and Accessories Price Piping Co., Inc. Asheville, North Carolina	263,220
Heating, Ventilating, Air Conditioning and Accessories Pyatt Heating and Air Conditioning Contractor, Marion, North Carolina	327,213
Electrical, Wiring and Installations Haynes Electrical Construction Co. Asheville, North Carolina	423,000
TOTAL	$ 4,261,430

The City Manager said the facility will be financed with Certificates of Participation. He said these certificates are being priced today and they will be sold tomorrow. He said the closing will be on July 18, 1991 and funds for the project will be in hand at that time. He said a budget amendment appropriating these funds will be brought to Council after July 18, 1991.

Upon inquiry of Councilman Frank, the City Manager said Marilyn Bass, Minority Business Coordinator, has been in contact with the contracts and they have agreed to comply with meeting the 10% goal for using minority subcontractors.

Vice-Mayor Moore said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Bratton, seconded by Councilman Frank, Resolution No. 91-114 was unanimously adopted.

Resolution Book No. 18 - Page No. 459-460

C. Resolution No. 91-120 - Resolution authorizing the Mayor to execute an amendment to the Supplemental Water Agreement

The City Attorney outlined the resolution stating that this resolution authorizes an amendment to the Supplemental Water Agreement regarding the calculation of the formula for reimbursement to the City and other municipalities within Buncombe County under the Law Enforcement formula. It will also provide that ownership of McCormick Field remain with the County so long as there remains any outstanding bonded indebtedness for improvements to that facility.

Mayor Michalove also participated in this discussion and vote by telephone.

Ralph Bishop commented on Council powers to regulate funds for Buncombe County law enforcement.

Upon motion of Councilman Ellison, seconded by Councilman Frank, Resolution No. 91-120 was unanimously adopted.

Resolution Book No. 18 - Page 466

II. PUBLIC HEARINGS:

A. **Public hearing relative to the rezoning of 466 Swannanoa Road from LI Light Industrial District to CS Commercial Service District and rezoning of 456 Swannanoa Road CH Commercial Highway to CS Commercial Service District.**

Ordinance No. 1929 - Ordinance amending Zoning of Property located at 466 and 456 Swannanoa River Road and identified as Ward 8, Sheet 15, Lots 65 and 65-1/4 of the Buncombe County Tax Maps

Vice-Mayor Moore opened the public hearing at 4:36 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Gerald Green, Senior Planner, said the Asheville Planning and Zoning Commission on June 5, 1991, reviewed and recommended approval of rezoning 466 Swannanoa Road (Ward 9, Sheet 15, Lot 65) from LI to CS zoning and 456 Swannanoa Road (Ward 8, Sheet 15, Lot 65-1/4) from CH to CS zoning. 466 Swannanoa Road is currently split-zoned LI and CS. The petition requests that both properties owned by them be rezoned to CS.

He said Smoky Mountain Petroleum is requesting this rezoning in order to expand their current facilities.

Vice-Mayor Moore closed the public hearing at 4:45 p.m.

Vice-Mayor Moore said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Ellison moved for the adoption of Ordinance No. 1929. This motion was seconded by Councilman Frank.

On a roll call vote of 5-0, Ordinance No. 1929 passed on first reading.

B. **Public hearing relative to the rezoning of a portion of Lot 16-1/4 located on Leicester Highway and County Home Road from R-5 Residential District to CS Commercial Service District.**

Ordinance No. 1930 - An Ordinance amending zoning of property located on Leicester Highway and County Home Road and identified as Ward 6, Sheet 13, Lot 16-1/4 of the Buncombe County Tax Maps

Vice-Mayor Moore opened the public hearing at 4:47 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Gerald Green, Senior Planner, said the Asheville Planning and Zoning Commission on June 5, 1991, reviewed and recommended approval of a split rezoning of a portion of Ward 6, Sheet 13, Lot 16-1/4. The Commission recommended shifting the dividing zoning line to the west leaving only 35 feet of Residential 5 zoning along County Home Road. On July 8, 1991, a public hearing was held, and this ordinance passed on first reading. This ordinance passed on second reading on July 23, 1991.

Subject property was split-zoned from Commercial Service to a combination of Commercial Service zoning along Leicester Highway and Residential 5 zoning along County Home Road by the Asheville City Council in 1982.

Vice-Mayor Moore Michalove closed the public hearing at 4:50 p.m.

Vice-Mayor Moore said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Frank moved for the adoption of Ordinance No. 1930. This motion was seconded by Councilman Price.

On a roll call vote of 5-0, Ordinance No. 1930 passed on first reading.

C. **Continuation of public hearing relative to the adoption of an Ordinance amending Article 9 of Chapter 30 of the Code of Ordinances of the City of Asheville (Standards for Designating Historic Signs).**

Ordinance 1931 - Ordinance amending Article 9 of Chapter 30 of the Code of Ordinances of the City of Asheville (Standards for designating Historic Signs)

Vice-Mayor Moore said this public hearing was continued from the June 18, 1991 meeting.

Gerald Green, Senior Planner, said as requested by Council during the public hearing several individuals were notified of the proposed amendment. He said owners of the Mountaineer Inn, Forest Manor Motor Lodge, Harry's Cadillac, and the Fine Arts Theater were notified.

Mr. Green again outlined the standards recommended by the Planning and Zoning Commission.

Upon inquiry of Councilman Price, Mr. Green said there is a difference between historic and landmark signs and new criteria would have to be established for landmark signs.

Lloyd Kirk, Forest Manor Motor Lodge, spoke in favor of the ordinance but said the provision that a sign must have existed at its original location for not less than forty (40) years should be changed.

Chris Moutos with the Mountaineer Inn also spoke in favor of the designation of historic signs. He said the sign at his business has been used in movies and in national magazines.

Vice-Mayor Moore closed the public hearing at 5:07 p.m.

Vice-Mayor Moore said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Ellison moved for the adoption of Ordinance No. 1931 changing the recommendation of the Planning and Zoning Commission that a sign must have existed at its original location for not less than forty (40) years to **twenty-five (25) years**. This motion was seconded by Councilman Price.

On a roll call vote of 4-1, Ordinance No. 1931 passed on first reading, with Vice-Mayor Moore voting "no".

III. OLD BUSINESS:

B. **Ordinance No. 1924 - Second reading of Ordinance amending Chapter 30 of the Code of Ordinances of the City of Asheville (Street Grade Requirements).**

Vice-Mayor Moore said this ordinance provides for street grade requirements to be applicable to group developments.

Vice-Mayor Moore said the ordinance was previously read on first reading and will not be reread in its entirety.

On a roll call vote of 4-1, Ordinance No. 1924 passed on second reading.

C. **Ordinance No. 1922 - Second reading of Ordinance amending Chapter 30 of the Code of Ordinances of the City of Asheville (Standards for placing Manufactured Homes on Individual Lots).**

Vice-Mayor Moore said the Manufactured Housing Subcommittee has, for the past year and a half, been examining the role of manufactured housing in meeting the needs of City residents for affordable housing. Several tasks have been completed by the task force, including an overview of the need for affordable housing and an investigation of manufactured housing construction. Standards for manufactured homes which are to be placed on individual lots were developed by the Subcommittee to assure compatibility of manufactured homes with stick-built homes. These standards would apply to

manufactured homes to replace existing mobile homes in the R-1 through R-4 Residential Districts and to all manufactured homes in the R-5 Residential District.

The proposed standards were reviewed by the Asheville Planning and Zoning Commission at their meeting on May 1, 1991. After discussing the standards, the Commission recommended their adoption. A public hearing was held and this ordinance passed on first reading on June 18, 1991 and on second reading on July 8, 1991.

Barbara Melton, member of the Planning and Zoning Commission and Chairman of the Manufactured Housing Subcommittee said they have been reviewing these standards since January, 1990. He said the committee toured other cities, manufacturing plants, and educated themselves on manufactured housing. She recommended adoption of the ordinance and said any problems dealing with the ordinance in the future could be addressed at that time.

Councilman Price again expressed her concern regarding the provision that a manufactured house must be parallel to the street. It was noted that in hardship cases the matter could be taken to the Board of Adjustment for a variance.

Mike Marlowe, Carolina Manufacturing Company, spoke in support of the ordinance. He said this ordinance would help provide for affordable housing. He also requested that Council and the Planning and Zoning Commission look into the feasibility of standards for park developments.

Larry Tweed, Manufactured Housing Dealer and a member of the Subcommittee, also recommended adoption of the ordinance.

Vice-Mayor Moore said the ordinance was previously read on first reading and will not be reread in its entirety.

On a roll call vote of 5-0, Ordinance No. 1922 passed on second reading.

Councilman Ellison moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1922. This motion was seconded by Councilman Bratton and carried unanimously.

On a roll call vote of 5-0, Ordinance No. 1922 passed on third and final reading.

Ordinance Book No. 12 - Page 436-438

D. **Ordinance No. 1921 - Second reading of Ordinance to rezone a portion of property located at 1897 Hendersonville Road from R-2 Residential District to OI Office Institutional District.**

Vice-Mayor Moore said this ordinance will tri-zone a rectangular lot along Hendersonville Road from R-2 Residential District to OI Office Institutional District.

Vice-Mayor Moore said the ordinance was previously read on first reading and will not be reread in its entirety.

On a roll call vote of 5-0, Ordinance No. 1921 passed on second reading.

Councilman Ellison moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1910. This motion was seconded by Councilman Frank and carried unanimously.

On a roll call vote of 5-0, Ordinance No. 1921 passed on third and final reading.

Ordinance Book No. 12 - Page 434-435

E. **Ordinance No. 1909 - Third and final reading of Ordinance amending Chapters 26 and 30 of the Code of Ordinances of the City of Asheville (Hillside Development Requirements).**

Vice-Mayor Moore said this ordinance amends the Hillside Development Requirements as set forth in Ordinance No. 631. The proposed amendments would assure that graded areas are distributed throughout the site and extend the Hillside Development Regulations to Subdivisions. This ordinance passed on second reading on June 18, 1991.

Vice-Mayor Moore said the ordinance was previously read on second reading and will not be reread in its entirety.

On a roll call vote of 5-0, Ordinance No. 1909 passed on third and final reading.

Ordinance Book No. 12 - Page 351-354

F. Further discussion relative to demolition or stabilization of 32 Broadway.

Resolution No. 91-113 - Resolution authorizing the Mayor to execute an agreement with the Preservation Society of Asheville and Buncombe County, Inc. regarding 32 Broadway.

The City Attorney said the Preservation Society of Asheville and Buncombe County has made a proposal for the preservation of the building at 32 Broadway. He said this resolution will authorize the execution of an Agreement with the Preservation Society of Asheville and Buncombe County, Inc. and all necessary related documents for the purpose of facilitating the investment by the City of up to $5,000.00 toward the stabilization of the structure in a joint undertaking with the Preservation Society, with the Preservation Society to invest up to $25,000.00 for that purpose.

Upon motion of Councilman Ellison, seconded by Councilman Price, Resolution No. 91-113 was unanimously adopted.

Resolution Book No. 18 - Page No. 457 - 458

IV. NEW BUSINESS:

A. Approval of site plan for the Cohen Subdivision.

Don Sherrill, Urban Planner, said the owner of the subject property is proposing to divide the 10-acre tract into two, 5-acre lots. The property is located at the end of Keasler Road in Haw Creek. The land lies outside of the City limits, but within the City's extraterritorial zoning jurisdiction. Water, sewer, and fire protection services are available to the site. The owner requests the approval of the final plat for this subdivision.

Councilman Ellison moved for the approval of the final site plan for the Cohen Subdivision. This motion was seconded by Councilman Frank and carried unanimously.

V. CONSENT:

A. Scheduling public hearing relative to rezoning of property located on W. T. Weaver Boulevard for August 6, 1991.

B. Scheduling public hearing relative to zoning of Beaverdam annexation property for July 23, 1991.

C. Resolution No. 91-115 - Resolution authorizing the City Manager to enter into a lease agreement for the City for use of the Asheville Catholic Community School Athletic Field and Playground.

Resolution Book No. 18 - Page 461

D. Resolution No. 91-116 - Resolution authorizing the City Manager to make application for and enter into an agreement with the Land-of-Sky Regional Council for Senior Citizen Grant Funds to provide outreach services for senior citizens.

Resolution Book No. 18 - Page 462

E. Resolution No. 91-117 - Resolution authorizing the Mayor to execute a FAA Grant Agreement for Project No. 3-37-0005-12.

Resolution Book No. 18 - Page 463

F. Resolution No. 91-118 - Resolution authorizing the City Manager to execute an amendment to the Lease by and between the City of Asheville and Wall Street Limited Partnership for the retail space of the Wall Street Parking Garage

Resolution Book No. 18 - Page 464

G. Resolution No. 91-119 - Resolution authorizing the Mayor to enter into an easement agreement with the Daniel Boone Council, Inc., Boy Scouts of America.

Resolution Book No. 18 - Page 465

Upon motion of Councilman Frank, seconded by Councilman Price, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

A. Asheville-Buncombe Development Corporation - Financing of Capital Projects

Councilman Price moved to authorize the City Manager to execute a contract with the Asheville-Buncombe Development Corporation in connection with the City's financing of several capital projects including the Public Works Facility. This motion was seconded by Councilman Frank and carried unanimously.

B. Resolution No. 91-121 - Resolution authorizing the Asheville Housing Authority to acquire an easement across property owned by Elijah Jones

The City Attorney presented the resolution which stated that the City of Asheville Engineering Division has prepared plans for the installation of a storm sewer to alleviate private property damage at 9 West Chapel Circle. The improvements will require that an easement be obtained across the property owned by Elijah Jones. Funding for the improvements include a $50,000 Community Development Block Grant. The resolution will authorize the Asheville Housing Authority to acquire, by condemnation, if necessary, an easement across the property owned by Elijah Jones for the purpose of making said storm drainage improvements.

Upon motion of Councilman Ellison, seconded by Councilman Price, Resolution No. 91-121 was unanimously adopted.

Resolution Book 18 - Page 467

C. 1991 Bele Chere Festival

Councilman Bratton moved that the City Manager be authorized to sign all necessary documents necessary to carry out the 1991 Bele Chere Festival. This motion was seconded by Councilman Ellison and carried unanimously.

D. Claims - Richard Stiles (Water) - Susan Reddick (Parks) - Ralph Haney (Water) - Elizabeth Jolliff (Water) - Edna R. Carter (Water) - Jerry Yates (Streets) -Garland Brothers (Water) - Bill Craft (Water) - Arthell Goforth (Sanitation) - Ann Williams (Police) - Dorothy McMenomy (Water) - Rick Greenwood (Water) - Mrs. M.A. Fishburne (Water) - Duane Holden (Water) - Jerry Nanney (Water) - Thomas A. Readling, Jr. (Parks) - Tawanda Tucker (Water) - Bruce Ponder (Water)

The City Manager said claims were received from Richard Stiles, Susan Reddick, Ralph Haney, Elizabeth Jolliff, Edna R. Carter, Jerry Yates,

Garland Brothers, Bill Craft, Arthell Goforth, Ann Williams, Dorothy McMenomy, Rick Greenwood, Mrs. M. A. Fishburne, Duane Holen, Jerry Nanney, Thomas A. Readling, Jr., Tawanda Tucker, and Bruce Ponder.

Vice-Mayor Moore said the claims have been referred to the appropriate insurers for investigation.

E. LAWSUITS - Allen Roth (Small claims action - money owed by 1990 Bele Chere Festival)

The City Manager said the City was served with a lawsuit on June 25, 1991 relative to small claims action for money allegedly owned by 1990 Bele Chere Festival.

Vice-Mayor Moore said the lawsuit has been referred to the appropriate legal counsel for action.

VII. ADJOURNMENT:

Mayor Michalove adjourned the meeting at 5:55 p.m.

H. Lee Michalove
MAYOR

Melissa F. Malcolm
CITY CLERK

Tuesday - July 16, 1991 - 4:00 P.M.

Regular Meeting

NO MEETING

Tuesday - July 23, 1991 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott

Absent: Councilman Bratton arrived at 4:50 p.m.

INVOCATION

The invocation was given by Councilman Price.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the minutes of the July 8, 1991 meeting as submitted.

I. PROCLAMATIONS:

A. Resolution No. 91-122 - Resolution of appreciation to retiring employee, Howard Stamey.

Mayor Michalove read the resolution of appreciation for retiring employee, Howard Stamey.

Upon motion of Councilman Ellison, seconded by Councilman Price, Resolution No. 91-122 was unanimously adopted.

Resolution Book No. 18 - Page 468

B. Resolution No. 91-123 - Resolution of appreciation to retiring employee, Carlton Penley.

Mayor Michalove read the resolution of appreciation for retiring employee, Carlton Penley.

Upon motion of Councilman Price, seconded by Vice-Mayor Moore, Resolution No. 91-123 was unanimously adopted.

Resolution Book No. 18 - Page 469

C. Proclamation proclaiming the week of July 27th through August 4th as "American Red Cross

Swim-A-Cross Week" and proclaiming Saturday, July 27, 1991, as "Celebrity Belly Flop Day."

Mayor Michalove read the proclamation and presented the proclamation to John Teeter.

D. Recognition of City Manager Intern Mike Greene.

The City Manager recognized City Manager Intern Mike Greene from the Asheville Fire Department and presented him with a Certificate for completion of the three (3) month program.

E. City Manager Interns - Introduction

The City Manager introduced Betty Hyatt, Customer Services Department, and Tony Lewis, from the Engineering Department, as the City Manager Interns for the next three (3) months.

II. PUBLIC HEARINGS:

A. Public hearing relative to zoning of Beaverdam annexation property.

Ordinance No. 1932 - An Ordinance amending the Zoning Ordinance and map to include the Zoning of the Beaverdam Valley Annexation Area.

Mayor Michalove opened the public hearing at 4:20 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

David Mitchell, with the Planning Department, said there are county regulations in effect for the Beaverdam annexation area. Pursuant to N.C. General Statutes, Section 160A-360 (f), those regulations and powers of enforcement remain in effect until either the city has adopted its regulations or 60 days has elapsed from the effective date of the annexation. The effective date of the Beaverdam annexation area was Midnight on May 30, 1991; therefore, the 60 days runs out as of Midnight on July 29, 1991. As a result, the Council must hold all three (3) readings of the ordinance at today's meeting. He said the Asheville Planning and Zoning Commission met on July 3, 1991 and recommended that the property in the Beaverdam Valley annexation area be zoned R-1 except for the Brentwood Nursing Facility to be

zoned R-3 Residential District and the Beaverdam Fire Station to be zoned R-2 Residential Districts. He said the residents are in favor of the R-1 Zoning Classification.

Carroll Hadley requested that his property be zoned R-2 Residential District since he has received prior approval from the Beaverdam Planning Council and obtained a building permit to develop a multi-family project.

In further discussion relative to Mr. Hadley's property it was determined that the building permit was issued in 1986 and might not be valid since the time limit for the building permit would have expired.

Mayor Michalove ruled that Council would only consider the recommendation of the Planning and Zoning Commission regarding the zoning of the Beaverdam Valley Annexation Area. He said if Mr. Hadley has a valid building permit to construct the multi-family project he could proceed or he could go through the rezoning process after the property is zoned.

Harold Garland, property owner in the Beaverdam Valley Area, spoke in support of the proposed zoning.

Kay Wright, 35 Beaver Valley Road, said she worked with the Beaverdam Planning Council and spoke in support of the R-1 Zoning Classification.

Mayor Michalove closed the public hearing at 4:48 p.m.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Vice-Mayor Moore moved for the adoption of Ordinance No. 1932. This motion was seconded by Councilman Frank.

On a roll call vote of 6-0, Ordinance No. 1932 passed on first reading.

Vice-Mayor Moore moved to suspend the rules and proceed to the second reading of Ordinance No. 1932. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1932 passed on second reading.

Vice-Mayor Moore moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1932. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1932 passed on third and final reading.

Ordinance Book No. 12 - Page 453-464

Councilman Bratton arrived at the meeting at 4:50 p.m.

III. OLD BUSINESS:

A. Ordinance No. 1929 - Second reading of an ordinance relative to the rezoning of 466 Swannanoa Road from LI Light Industrial District to CS Commercial Service District and rezoning of 456 Swannanoa Road CH Commercial Highway to CS Commercial Service District.

Mayor Michalove said the Asheville Planning and Zoning Commission on June 5, 1991, reviewed and recommended approval of rezoning 466 Swannanoa Road (Ward 9, Sheet 15, Lot 65) from LI to CS zoning and rezoning 456 Swannanoa Road (Ward 8, Sheet 15, Lot 65-1/4) from CH to CS zoning.

466 Swannanoa Road is currently split-zoned LI and CS. The petition requests that both properties owned by them to be rezoned to CS. On July 8, 1991, a public hearing was held, and this ordinance passed on first reading.

In response to questions of Councilman Price, Carol Alberice from the Planning Department, said the Planning Director has interpreted the Commercial Service zoning classification use of "supply and distribution facility" as an appropriate use for petroleum storage. She said a parallel use by Andy Oxy at 27 Heritage Drive is located in a CS zone within the city limits.

She said as far as safety precautions by the developer to assure that the expansion of the petroleum storage facility does not create a safety/environmental problem, the developer should contact the Asheville Fire Marshall to conduct the final pressure check on all underground petroleum tanks. She said at this time this inspection is

voluntary and is not required. She said the developer should also contact the E.P.A. Air Pollution Control division in Asheville to complete a heating oil permit to check safety and code requirements. She said the burden of proof to file for the permit is on the developer.

Councilman Price said although the use of the property is not significant in rezoning properties she is concerned about allowing bulk storage of petroleum in a Commercial Service District. She said she would prefer that the staff look into the feasibility of allowing "bulk storage" in Light Industrial as a Conditional Use.

Mayor Michalove said this ordinance was previously read on first reading and it would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 6-1, Ordinance No. 1929 passed on second reading, with Councilman Price voting "no".

Councilman Ellison moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1929. This motion was seconded by Councilman Bratton, which motion failed on a voice vote of 4-3, with Mayor Michalove, Councilman Price, and Councilman Frank voting "no". (Note: Motions to suspend the rules require an affirmative vote of 2/3 of the members of Council)

B. Ordinance No. 1930 - Second reading of an ordinance relative to the rezoning of a portion of Lot 16-1/4 located on Leicester Highway and County Home Road from R-5 Residential District to CS Commercial Service District.

Mayor Michalove said the Asheville Planning and Zoning Commission on June 5, 1991, reviewed and recommended approval of a split rezoning of a portion of Ward 6, Sheet 13, Lot 16-1/4. The Commission recommended shifting the dividing zoning line to the west leaving only 35 feet of Residential 5 zoning along County Home Road. On July 8, 1991, a public hearing was held, and this ordinance passed on first reading.

Subject property was split-zoned from Commercial Service to a combination of Commercial Service zoning along Leicester Highway and Residential 5

zoning along County Home Road by the Asheville City Council in 1982.

Mayor Michalove said the ordinance was previously read on first reading and will not be reread in its entirety.

On a roll call vote of 7-0, Ordinance No. 1930 passed on second reading.

Councilman Ellison moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1930. This motion was seconded by Vice-Mayor Moore and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1930 passed on third and final reading.

Ordinance Book No. 12 - Page 450

C. **Second reading of an ordinance relative to the adoption of an Ordinance amending Article 9 of Chapter 30 of the Code of Ordinances of the City of Asheville (Standards for Designating Historic Signs).**

Note: This item was postponed until August 20, 1991 pending further staff review.

D. **Third reading of Ordinance amending Chapters 25 and 26 of the Code of Ordinances of the City of Asheville (Street Grades).**

Note: This item was postponed until August 6, 1991 pending further staff review.

E. **Third reading of Ordinance amending Chapter 30 of the Code of Ordinances of the City of Asheville (Street Grade Requirements).**

Note: This item was postponed until August 6, 1991 pending further staff review.

F. **Consideration of the 1991-92 Annual Operating Budget.**

Ordinance No. 1933 - An Ordinance adopting the Budget and fixing the Tax Rate of the City of Asheville for the Fiscal Year 1991-92.

The City Manager said this ordinance provides for the Annual Operating Budget for Fiscal Year 1991-92

and sets the tax rate at $.60 per $100 assessed valuation for the City of Asheville.

He said the proposed budget has been amended since Council first received it due to the action of the General Assembly on the State Budget creating a revenue loss to the City of Asheville of $314,000. He said the State decided to freeze state shared funding, reduce beer and wine and state utilities franchise tax funding to provide state match for Water and Wastewater Federal Grants, and to exempt itself from local option sales taxes.

He said a report from the Buncombe County Tax Collector revealed an unexpected tax collection rate of 94% which is less than was budgeted resulting in a revenue loss of approximately $200,000. He said this makes for a total loss in the 1991-92 Budget of $535,000.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

After discussion, Vice-Mayor Moore moved for the adoption of Ordinance No. 1933. This motion was seconded by Councilman Frank.

On a roll call vote of 7-0, Ordinance No. 1933 passed on first and final reading.

Ordinance Book No. 12 - Page 465-469

IV. NEW BUSINESS:

A. Approval of final plat for the Heath Ridge Acres Subdivision.

Gerald Green, Senior Planner, said construction of Heath Ridge Acres Subdivision began before the preliminary plat was presented to the Planning and Zoning Commission for review. The road has been graded and graveled and all utilities (water, sewer, electric power, and telephone) have been installed. Four lots are contained in the subdivision located on Johnson School Road in the City's extra-territorial planning area. He said the developer is requesting a variance to permit the 470-foot subdivision street to be constructed as a private street. As a private street, there would be no pavement, and the street would not meet

city or state design standards for width, pavement, etc.

Mr. Green said the Asheville Planning and Zoning Commission on July 3, 1991, reviewed and recommended approval of the preliminary plat for the Heath Ridge Acres Subdivision. The Commission also recommended approval of variances to permit the subdivision street to be constructed as a private street and to permit a street grade of 14%.

After discussion, Councilman Ellison moved to approve the Heath Ridge Acres Subdivision as recommended by the Planning and Zoning Commission including the requested variances; provided that the gravel road meet NCDOT standards. This motion was seconded by Councilman Price and carried on a voice vote of 6-1, with Vice-Mayor Moore voting "no."

B. Action relative to Bele Chere Festival - Defense for offices and volunteers

Councilman Ellison moved that the City Council confirm that Resolution No. 79-253, adopted by the Asheville City Council on November 29, 1979, relating to claims and judgments sought or entered against City officers or employees, shall apply in all respects to members of the Bele Chere Board of Directors and the Bele Chere Board of Trustees. This motion was seconded by Vice-Mayor Moore and carried unanimously.

Mayor Michalove asked the City Manager to write a letter to the Chairman of the Bele Chere Board of Trustees advising of Council's action.

NOTE: Councilman Ellison left the meeting "un-excused" indicating that he votes "aye" on the remaining matters considered by Council.

C. Approval of "Permit to Repair or Alter a Type VI Building in the Fire District." - 92 Patton Avenue

Jeff Trantham, with the Inspections Department, said the applicants, Robert and Cynthia Camille, are requesting a permit to repair or alter a Type VI building in the fire district. He said the building is located at 92 Patton Avenue and is the location of the Old Patton Avenue Cigar Store. Section 303.4 of the North Carolina Building Code states "....no Type IV building or structure shall

be erected, repaired, moved into the fire district, or addition thereto except upon the approval by the City Council, and approved by the Commissioner of Insurance or his designee." He said the applicants plan to upgrade the building and to occupy the building as a residence and a small business. He said the Inspections Department would recommend approval of this permit.

Vice-Mayor Moore moved to approve the "Permit to Repair or Alter a Type VI Building in the Fire District" located at 92 Patton Avenue. This motion was seconded by Councilman Price and carried unanimously.

D. **Resolution No. 91-124 - Resolution revising Section 49, Military Leave of the City's Personnel Policy.**

Pam McGrayne, Personnel Director, said this amendment will provide that military leave shall be granted to all employees who are members of a reserve component of the United States Armed Forces or National Guard for annual training, monthly drills, war, or national emergency. She said such leave shall be with pay for up to fifteen (15) scheduled work days per Federal fiscal year for annual military training and one hundred eighty (180) calendar days for a national emergency or war. She said the one hundred eighty days (180) days may be extended by the City Manager for an additional one hundred eighty days (180) unless additional time is authorized by City Council.

She said employees granted leave with pay will be paid the difference between their base military pay and their current City salary provided the military pay is the lesser.

She said the amendment is being recommended by a committee of ten (10) to twelve (12) reservists that reviewed policies of twenty-three (23) other municipalities.

Mayor Michalove said as a matter of courtesy the Civil Service Board should be advised of proposed amendments to the Personnel Policy.

Upon motion of Vice-Mayor Moore, seconded by Councilman Frank, Resolution No. 91-124 was unanimously adopted.

Resolution Book No. 18 - Page 470

E. Resolution No. 91-125 -Resolution amending City's Personnel Policy to include a new Article 8 relative to employee personnel records.

Pam McGrayne, Personnel Director, said this amendment will allow for compliance with North Carolina General Statute 160A-168 in regard to employee personnel records.

Upon motion of Vice-Mayor Moore, seconded by Councilman Bratton, Resolution No. 91-125 was unanimously adopted.

Resolution Book No. 18 - Page 471

F. Ordinance No. 1934 - Project Ordinance for the Public Works Facility.

The City Manager said this project ordinance will appropriate the required funds in the amount of $5,072,272 for the Public Works Complex. He said on June 18, 1991, the construction bids for the Public Works Complex were opened in a public meeting. ARGO Construction Company was the lowest responsible bidder for the project, meeting all specifications as set forth in the bid document. This bid was awarded on July 8, 1991. The appropriation includes the cost for the construction of the project (and all subcontractors) in addition to the furnishings and a five percent (5%) contingency.

Vice-Mayor Moore moved for the adoption of Ordinance No. 1934. This motion was seconded by Councilman Bratton.

On a roll call vote of 7-0, Ordinance No. 1934 passed on first and final reading.

Ordinance Book No. 12 - Page 470

F. Motion to approve INFRACON to provide a Sidewalk Inventory Program.

The City Manager said last year, the Public Works Department completed implementation of the PAVER Maintenance Management System for the City of Asheville street network. This program allows us to review the entire network and prioritize repairs in an orderly and efficient manner. INFRACON has a sidewalk inventory program which

uses the same base line as the PAVER System. INFRACON is recommended to provide the street & sidewalk inventory.

He said this program would cost $40,000 which is carried over from last year and was approved by Council for Sidewalk Inventory.

Vice-Mayor Moore moved to retain INFRACON for inventory of Street & Sidewalk for City of Asheville Street System and authorize the City Manager to execute an agreement with INFRACON for the inventory. This motion was seconded by Councilman Bratton and carried unanimously.

V. CONSENT:

A. Scheduling public hearing relative to the partial rezoning of property located at 6 Clairmont Avenue from R-3 Residential District to CH Commercial Highway District (Petitioner, Groce Properties) for August 6, 1991.

B. Scheduling public hearing relative to the proposed wording amendments to the Zoning Ordinance of the City of Asheville, as amended, concerning Neighborhood Parks for August 6, 1991.

C. Resolution No. 91-126 - Resolution authorizing the Mayor to execute an agreement with the North Carolina Department of Transportation for Highway Project 8.1841602 (Improvement to US 25).

Resolution Book No. 18 - Page 472

Upon motion of Councilman Frank, seconded by Councilman Bratton, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

A. Sidewalks on N. Ann Street and Carver Street

Councilman Frank requested that the City Manager look into the clearing of the sidewalks on the west side of N. Ann Street and Carver Street.

B. Harold Garland - Parking Garages

Harold Garland said he conducted a five hour survey of the cars parking in the Parking Garages. He said the garages are not being used to their

potential. He said, for example, the Civic Center Garage had 134 cars at 11:00 o'clock with a potential of 550 - 600. He suggested that the Civic Center Garage rates be reduced in order to get the cars off the downtown streets.

C. Imgard Gordos - Sovereignty Proposal

Imgard Gordos presented members of Council with materials relative to the sovereignty proposal and a proposed resolution for Council to consider requesting that United States Congress instruct the United States Treasury to create and issue interest-free loans to tax-supported bodies for the purpose of funding capital projects and for paying off existing debts.

D. CLAIMS - Karen Marie Graham (Law Enforcement Liability) - Wheeler Construction Company (Fire) - Robert E. Fields (Sanitation) - Jack Rosenstein (Water) - Joe Holbert (Water) - Margo Knight (Water) - Daniel Wachowiak (Water) - H & M Constructors (Streets) - Reginald Johnson (Sanitation) - Mrs. Lon Hensley (Water) - Mrs. Miriam Kushin (Water)

The City Manager said claims were received from Karen Marie Graham, Wheeler Construction Company, Robert E. Fields, Jack Rosenstein, Joe Holbert, Margo Knight, Daniel Wachowiak, H & M Constructors, Reginald Johnson, Mrs. Lon Hensley, Mrs. Miriam Kushin.

Mayor Michalove said the claims have been referred to the appropriate insurers for investigation.

VII. ADJOURNMENT:

Mayor Michalove adjourned the meeting at 6:30 p.m.

W. M. Michalove
MAYOR

William D. Wolenty
CITY CLERK

Tuesday - July 30, 1991 - 1:00 P.M.

City Council Worksession

Present: Mayor Kenneth M. Michalove, Presiding; Vice Mayor William G. Moore, Councilmen Mary Lloyd Frank, Wilhelmina Bratton, Eugene W. Ellison, William W. Estes, and Norma T. Price; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

WATER PRESENTATION

Richard Wood, Chairman of the Asheville-Buncombe Water Authority, and Dave Zimmer with Camp, Dresser and McGhee, presented to the City Council and County Commissioners the proposal for distribution and improvements to the water system. This plan calls for a $26-$27,000,000 bond issue that they requested be held at the November General Election.

DESIGN REVIEW

The Council Committee, composed of Mary Lloyd Frank, Bill Estes, and Bill Moore, made an interim report on efforts to move forward with mandatory design review. The Council asked that they present another report in October after they have had an opportunity to meet with the Design Review Task Force and other interested citizens.

ORDINANCE NO. 1929 - 466 SWANNANOA ROAD - 456 SWANNAOA ROAD SMOKY MOUNTAIN PETROLEUM - REZONING -

Councilman Ellison moved, seconded by Councilman Estes, that the rezoning issue be delayed until the staff could notify the developer that proposed changes will be made to the zoning ordinance of the City of Asheville to delete sales and distribution of flammable goods from the CS Commercial Service District and until the LI Light Industrial District regulations can be changed to allow such facilities as a "conditional use."

Mayor Michalove adjourned the meeting at 3:30 p.m.

K. M. Michalove
MAYOR

William F. Wolcott, Jr.
CITY CLERK

Tuesday - August 6, 1991 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott

Absent: Councilman Ellison arrived at 5:15 p.m.

INVOCATION

The invocation was given by Mayor Michalove.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the minutes of the July 23, 1991 meeting as submitted.

I. PROCLAMATIONS:

A. Resolution No. 91-127 - Resolution of appreciation to Mike Moser.

Mayor Michalove read the resolution of appreciation to Mike Moser, Chairman of the Planning and Zoning Commission, whose term expires August 14, 1991.

Upon motion of Vice-Mayor Moore, seconded by Councilman Price, Resolution No. 91-127 was unanimously adopted.

Mayor Michalove presented the resolution to Mike Moser.

Resolution Book No. 18 - Page 473

B. Resolution No. 91-128 - Resolution of appreciation to Danie Johnson.

Mayor Michalove read the resolution of appreciation to Danie Johnson, member of the Planning and Zoning Commission, whose term expires August 14, 1991.

`Upon motion of Vice-Mayor Moore, seconded by Councilman Price, Resolution No. 91-128 was unanimously adopted.

Mayor Michalove presented the resolution to Danie Johnson.

Resolution Book No. 18 - Page 474

C. **Resolution No. 91-129 - Resolution of appreciation to retiring employee, Randy Davis.**

`Mayor Michalove read a resolution of appreciation to retiring employee, Randy Davis. Mr. Davis has been with the City for 8 years and worked as a Police Officer, Sr., in the Police Department. He retired May, 1991.

`Upon motion of Vice-Mayor Moore, seconded by Councilman Frank, Resolution No. 91-129 was unanimously adopted.

Resolution Book No. 18 - Page 475

D. **Proclamation proclaiming Saturday, August 17, 1991, as "Women's Equality Day."**

Mayor Michalove read a proclamation proclaiming Saturday, August 17, 1991 as " Women's Equality Day" and presented the proclamation to Julia Hall, Vice-President of WNC Women's Coalition.

E. **Presentation of "Certificate of Achievement" to Linda Adams, City Manager Intern.**

The City Manager presented Linda Adams with a "Certificate of Achievement" for completing a three (3) month City Manager Intern Program.

IV. NEW BUSINESS

A. **Resolution No. 91-130 - Resolution directing the Finance Director to apply to the Local Government Commission for approval of the City's proposed General Obligation Water Bond financing.**

The City Manager said the City Council is considering the issuance of General Obligation Bonds to pay for the capital costs of acquiring and constructing certain improvements to the water system of the City, including the acquisition of land or rights in land required therefor. This

resolution directs the Finance Director to apply to the Local Government Commission for approval of the City's proposed General Obligation water bond financing.

The City Manager said this action sets in motion a special referendum on the November ballot for the General Obligation Water Bond Financing. He said the Bond Order would be introduced on September 10, 1991 and a public hearing would be held on the issue on September 17, 1991 with the Special Referendum being held on November 5, 1991.

He presented a fact sheet showing the financial summary for the General Obligation Water Bond Financing.

Upon motion of Councilman Frank, seconded by Vice-Mayor Moore, Resolution No. 91-130 was unanimously adopted.

Resolution Book No. 18 - Page 476

B. Resolution No. 91-131 - Resolution directing the City Clerk to publish the Notice of Intention to Apply to the Local Government Commission for Approval of Bonds.

The City Manager said the City Council is considering the issuance of General Obligation Bonds to pay for the capital costs of acquiring and constructing certain improvements to the water system of the City, including the acquisition of land or rights in land required therefor. This resolution directs the publication of the required Notice of Intention to Apply to the Local Government Commission for approval of bonds.

Upon motion of Councilman Bratton, seconded by Councilman Price, Resolution No. 91-131 was unanimously adopted.

Resolution Book No. 18 - Page 477

II. PUBLIC HEARINGS:

A. Public hearing relative to rezoning of property located on W. T. Weaver Boulevard (portions of Ward 2, Sheet 8, Lots 3 and 105 and a portion of 94) from R-3 Residential District to OI Office Institutional District.

Ordinance No. 1935 - Ordinance amending Zoning of Property Located on W. T. Weaver Blvd. and Nantahala Street (Petition of Carroll Hughes, Agent for Owners)

Mayor Michalove opened the public hearing at 4:22 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Carol Alberice, Urban Planner II, said the Asheville Planning and Zoning Commission on June 5, 1991, reviewed and recommended approval of rezoning Ward 2, Sheet 8, Lots 3, 105 and a portion of 94 (Plat #19). The subject property is located behind OI zoned lots fronting on W. T. Weaver Boulevard and is across the street from the entrance to UNC-A. Currently vacant, these lots are gently sloping and visible from W. T. Weaver Boulevard and Nantahala Street. She said a 20' buffer would be required on the non-residential lots. She said the property is within the boundaries outlined in the 2010 Comprehensive Plan.

She said the concerns expressed at the Planning and Zoning Commission meeting were tree removals and the closing of Carolina Lane.

Tom Bacon, Executive Director of MEHEC, said they plan to construct an educational/medical building to be compatible with UNC-A. He said they are committed to the neighborhood and would be saving the trees.

Tom Byers with UNC-A, spoke in support of the rezoning.

Councilman Price noted that the project would come under the group development review before being completed.

Mayor Michalove closed the public hearing at 4:31 p.m.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Bratton moved for the adoption of Ordinance No. 1935. This motion was seconded by Frank.

On a roll call vote of 6-0, Ordinance No. 1935 passed on first reading.

Mayor Michalove noted that the second reading of the ordinance would be held on August 13, 1991 and the third reading on August 20, 1991.

B. Public hearing relative to the proposed wording amendments to the Zoning Ordinance of the City of Asheville, as amended, concerning Neighborhood Parks.

Mayor Michalove opened the public hearing at 4:35 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Gerald Green, Senior Planner, said Neighborhood parks currently are not defined in the City of Asheville's Zoning Ordinance, although they are listed as permitted uses in the R-3 and R-5 Residential Districts. The proposed amendment provides a definition of neighborhood parks and identifies them as permitted uses in the R-1 and R-2 Residential Districts. Parks meeting the definition of neighborhood parks, such as the Griffin Boulevard Rose Garden, are currently located in the R-1 and R-2 Districts. The status of these parks as non-conforming uses prevents their expansion and/or improvement. New parks cannot be developed in the R-1 and R-2 districts, limiting the ability of the Parks and Recreation Department to meet the needs of the citizens of Asheville.

This amendment was requested by the Parks and Recreation Department, and the proposed amendment has been reviewed and approved by that department.

Upon inquiry of Mayor Michalove, the City Manager said the proposed amendment was reviewed by the Recreation Advisory Board.

Councilman Price questioned what effect this ordinance would have on the Swain Property on Kimberly Avenue, as well as other similar properties in the City, designated specifically for park purposes.

Councilman Price moved to continue the public hearing for two (2) weeks, August 20, 1991, without further advertisement in order to get

further staff. This motion was seconded by Councilman Estes and carried unanimously.

III. OLD BUSINESS:

A. **Ordinance No. 1923 - Third reading of Ordinance amending Chapters 25 and 26 of the Code of Ordinances of the City of Asheville (Street Grades).**

The City Attorney reviewed the following memorandum relative to the Street Grades:

MEMORANDUM TO: Ken Michalove, Mayor, and Members of the Asheville City Council

FROM: Bill Slawter, City Attorney

DATE: August 1, 1991

SUBJECT: Street Grades

The City Council has had before it for consideration two separate ordinances related to street grades. One of the ordinances is related to the subdivision provisions of the Code of Ordinances, and specifically sets forth street grade limitations. The second ordinance, which would be included within the group development provisions of the Code of Ordinances, imposes the same limitations for group developments by making a cross reference to the subdivision provisions.

At the first reading of these ordinances, the City Council had before it two sets of ordinances, one recommended by staff and the other recommended by the Planning and Zoning Commission. The staff version was more detailed, and included standards for the granting of variances to the street grade requirements. The version recommended by the Planning and Zoning Commission, which contained less detail, was approved by the City Council on both first and second readings.

As you may recall, at the time of the first reading of the ordinances, I had stated some concern about the means by which the variances would be granted, with both the City Council and the Board of Adjustment involved in the process. The questions that I had related to which entity had the authority to grant variances, as well as the advisability of having separate boards grant variances for the same type of matter. As we looked into these questions, we had

discussions with staff at the Institute of Government regarding how best to proceed, and had just finalized those conclusions when the ordinances came on for third reading. The third reading of the ordinances was postponed in order to prepare revisions to the ordinances that we could recommend to you, consistent with our findings and consistent with the recommendations of the Institute of Government.

The difficulty of deciding which entity should be involved relates to the general ambiguity contained in the General Statutes regarding the approval of subdivisions and group developments and the granting of variances. While the Board of Adjustment is the body that is generally authorized to grant variances from the strict terms of the zoning ordinance, the subdivision ordinance is not a part of the zoning ordinance. Either the City Council or "a designated planning agency" (i.e., the Planning and Zoning Commission) has authority to approve subdivisions pursuant to the statute. The issue is further complicated by the fact that the authority for zoning set forth in the General Statutes does not include any specific authority regarding the regulation of group developments. Most, if not all, cities within the state have such regulations, with procedures somewhat like ours, but this procedure has evolved based upon implied, rather than specific, authority.

This situation leads us to believe, as recommended by the Institute of Government, that the variations from the strict terms of the group development provisions and the subdivision provisions would be more appropriately assigned to the board or boards granting approval for those matters. In the case of both subdivisions and group developments, the Planning and Zoning Commission first considers the matter, and then the City Council considers the matter (except in matters of group development which are approved by the City Council without action, thus adopting the approval of the Planning and Zoning Commission). Attached are two new draft ordinances, similar to the ordinances previously adopted on first and second readings, but placing the authority to grant the modification from the provisions of the subdivision or group development provisions of the ordinance with the Planning and Zoning Commission, subject to appeal to the City Council, rather than with the Board of Adjustment.

Please note that the attached ordinances make reference to "modifications" rather than "variances" from the provisions of the subdivision and group development ordinances. We have in the past referred to such modifications as "variances" and thereby confused them with technical variances from the zoning ordinance that are granted by the Board of Adjustment. By using the term "modifications" in connection with subdivisions and group

developments, we will hopefully avoid any ambiguity in this regard.

Since both the Planning and Zoning Commission and the City Council have the opportunity to review all subdivisions and group developments, the question arises as to which of those bodies should grant the modifications. In connection with subdivisions, the Planning and Zoning Commission has authority for preliminary plat approval, the time at which a determination needs to be made about street grades. In connection with group developments, the Planning and Zoning Commission is the only body that now reviews those items, except in the instances where the City Council determines that it should conduct an additional public hearing. It seemed best to us, therefore, to vest the authority to grant such modifications with the Planning and Zoning Commission, as reflected in the attached ordinances.

If the developer of a subdivision or group development were not satisfied with the outcome of his request for a modification before the Planning and Zoning Commission, the developer would be allowed to appeal to the City Council under the attached ordinances.

The attached ordinance draft related to subdivisions also provides for the Planning and Zoning Commission to have authority to grant all appropriate modifications for subdivisions (subject to appeal to the City Council) rather than having the request for such modifications go directly to the City Council. If the attached ordinances are adopted, an additional amendment should probably be made to the group development ordinance providing for all modifications of that ordinance to similarly be considered by the Planning and Zoning Commission (subject to appeal to the City Council), rather than having some of those items being initially considered by the City Council. That change would require further notice and hearing before being implemented, and could be pursued after adoption of the attached ordinances.

After discussion, Vice-Mayor Moore moved to amend the ordinances as recommended by the City Attorney providing further that an 18% cap be placed on all street grade modifications by the Planning and Zoning Commission. This motion died for the lack of a second.

After further discussion, Councilman Estes moved to table the third reading of the ordinance for two (2) weeks, August 20, 1991, giving members of Council an opportunity to review the suggested changes by the City Attorney. This motion was seconded by Councilman Bratton and carried unanimously.

B. Ordinance No. 1924 - Third reading of Ordinance amending Chapter 30 of the Code of Ordinances of the City of Asheville (Street Grade Requirements).

Councilman Estes moved to table the third reading of the ordinance for two (2) weeks, August 20, 1991, giving members of Council an opportunity to review the suggested changes by the City Attorney. This motion was seconded by Councilman Bratton and carried unanimously.

Mike Plemmons, with CIBO, requested that CIBO, the Board of Realtors, and the Home Builders Association be furnished a copy of the proposed revised ordinances.

IV. NEW BUSINESS:

A. Motion to approve final plat for the Thornridge II Subdivision located on Haw Creek Road.

NOTE: It was noted that this matter has to be reviewed by the Planning and Zoning Commission prior to being considered by Council. This matter was rescheduled for August 20, 1991.

Councilman Ellison arrived at the meeting at 5:15 p.m.

B. Motion to approve final plat for the Haw Creek Trace Subdivision located at 245 Old Haw Creek Road.

Don Sherrill, Urban Planner, said Haw Creek Trace is a proposed four (4) lot residential subdivision to be located at 245 Old Haw Creek Road. The entire site is 1.24 acres in area and the lot sizes range from 9,000 square feet to 19,000 square feet in area. The land is presently vacant and lies within the R-3 Medium Density Residential zone. All services are available.

At their meeting April 3, 1991, the Asheville Planning and Zoning Commission voted to approve the preliminary plat for Haw Creek Trace with two contingencies:

1) City Council grant a variance on the street right-of-way width and the cul-de-sac radius.

2) The proposed sewer line be approved by the North Carolina Division of Environmental Management prior to issuance of any building permit.

At their April 9, 1991 meeting, the Asheville City Council voted to approve the developer's variance request to reduce the street right-of-way width and the cul-de-sac radius from 50 ft. to 30 ft.

The developer has received a permit from the North Carolina Division of Environmental Management for the construction and operation of the proposed sewer lines.

Councilman Price moved to approve the final plat for the Haw Creek Trace Subdivision as recommended by the Planning and Zoning Commission. This motion was seconded by Vice-Mayor Moore and carried unanimously.

II. PUBLIC HEARING (cont'd)

C. **Public hearing relative to the partial rezoning of property located at 6 Clairmont Avenue from R-3 Residential District to CH Commercial Highway District (Petitioner, Groce Properties).**

Ordinance No. 1936 - Ordinance amending Zoning of property located at Six Clairmont Avenue and identified as Pin # 9740-18-41-4861 on the Buncombe County Tax Maps

Mayor Michalove opened the public hearing at 5:15 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

The City Attorney noted that protest petitions regarding this rezoning was received by the City Clerk's office. He said protest petitions must be received two (2) working days prior to the public hearing and must contain signatures of property owners immediately adjacent or directly across the street or property extending 100' from the property in question before the signatures are valid. He said the petitions were received on August 1, 2, and 5, 1991. He said the petitions received on August 1 and 2 were timely received but did not contain signatures of property owners as prescribed by law. He said the petition received on August 5 was not timely received;

however, the petition did not contain signatures of property owners as required.

At the request of the City Attorney, Vice-Mayor Moore moved that Council accept the staff's recommendation that the protest petitions were not sufficient to invoke a 3/4 affirmative vote of Council and that Council proceed with the rezoning issue with the understanding that a simple majority vote in the affirmative would be all that is required to rezone the property as requested. This motion was seconded by Councilman Bratton and carried unanimously.

Carol Alberice, Urban Planner II, said Number 6 Clairmont Avenue (Ward 6, Sheet 6, Lot 36) is currently zoned R-3 Residential District and is occupied as a single-family dwelling.

Clairmont Avenue is a narrow, one-way residential street with on-street parking. The street is zoned predominantly R-3 and is comprised of single-family and multi-family dwellings (Gracelyn Garden Apartments).

The Planning and Zoning Commission reviewed this request on July 3, 1991, and recommends unanimously the rezoning of 6 Clairmont Avenue, as requested, except for a 10-foot section along Clairmont Avenue to remain R-3 Residential District.

She reviewed the surrounding zoning and uses of property and the history of rezonings in the area.

She said opposition was received relative to the rezoning. She said the residents in the area expressed concerns relative to the narrowness of Clairmont Avenue; the rezoning was not in keeping with the 2010 Comprehensive Plan; increased traffic, and pedestrian circulation.

She said those speaking in support of the rezoning said the rezoning is in keeping with the 2010 Comprehensive Plan; the needs of the business community would be met and the 10' buffer would restrict business encroachment onto Clairmont Avenue.

A lengthy discussion was held as to whether the rezoning was in keeping with the 2010 Comprehensive Plan. It was noted that this determination could be interpreted either way.

Mike Moser, Chairman of the Planning and Zoning Commission, said the Commission felt the rezoning was in keeping with the 2010 Comprehensive Plan and the split zoning is an effective tool to protect residential property.

Larry McDevitt, Attorney representing the petitioner, Jim Groce, Groce Properties (Citizens Hardware/Citizens True Value Store), spoke in support of the rezoning. He said his client want to protect the residential neighborhood but at the same time expand an existing operational business. He also indicated that the 10' buffer would protect the residential property. He said the rezoning is clearly within the 2010 Comprehensive Plan. He encouraged Council to accept the unanimous recommendation of the Planning and Zoning Commission to rezone the property.

Jim Groce, petitioner, spoke in support of the rezoning. He said he has owned the property in question for a number of years. He shared with members of Council a "Master Plan" that he has had for a number of years and has been used as the need arose for expansion. He said he also has an interest in protecting the residential neighborhood.

Vic Buchanan, Attorney representing Mary Veehorn and owners of Gracelyn Garden Apartments, spoke in opposition to the rezoning. He said Clairmont is a viable residential area and the rezoning would undermine the land use spirit as outlined in the 2010 Comprehensive Plan. He strongly requested that the rezoning be denied.

Tom Leslie, 14 Blackwood Road, and Manager of Gracelyn Garden Apartments, spoke in opposition to the rezoning.

Beth Furr, 3 Vineyard Place, speaking on behalf of the residents in the vicinity of Merrimon Avenue, spoke in opposition to the rezoning.

Kevin McDonald, 11 Clairmont Avenue, spoke in opposition to the rezoning.

After discussion, Mayor Michalove closed the public hearing at 7:10 p.m.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Bratton moved for the adoption of Ordinance No. 1936. This motion was seconded by Ellison.

On a roll call vote of 6-1, Ordinance No. 1936 passed on first reading, with Vice-Mayor Moore voting "no".

Mayor Michalove noted that the second reading of the ordinance would be held on August 13, 1991 and the third reading on August 20, 1991.

III. OLD BUSINESS:

A. **Report relative to "T" intersection at White Pine Drive and Brackettown Road.**

The City Manager highlighted the history of the Expansion of the Asheville Mall as it relates to the requirement of a "T" intersection at White Pine Drive and Brackettown Road.

He presented members of Council with the latest plan, prepared by the Public Works Department, for a "T" intersection at White Pine Drive and the widening of White Pine Drive within existing road right-of-way. He said this plan not only triples storage capacity for White Pine Drive traffic, but also minimizes a significant safety hazard. He said it appears to be the best plan for both a short and long term solution to the existing traffic problem. However, the residents of White Pine Drive are not in agreement with the proposed plan, since they would like to discourage the use of Brackettown Road as an ingress and egress to the shopping center.

He said staff needs direction as to how to proceed with the plan as it relates to the widening of White Pine Drive.

A lengthy discussion was held relative to the intent of Councilman Price's motion relative to the approval of the site plan for the expansion of the Asheville Mall as it relates to the "T" intersection at Brackettown Road and White Pine Drive and the widening of White Pine Drive.

Councilman Price said the intent of her motion at the time of approval was to make it inconvenient for individuals to use Brackettown Road as an ingress or egress to the shopping center. She said

she was aware at that time that White Pine Drive might have to be widened to some extent but not for a full lane of traffic. She said she felt more traffic would use Brackettown Road and White Pine Drive if a full lane is added to White Pine Drive.

A discussion was held between members of Council and the Director of Public Works, Jim Ewing, relative to the safe factors in this particular area.

Councilman Price moved that the Council request staff to develop a plan for a "T" intersection at Brackettown Road and White Pine Drive; that the plan be submitted to the Kenilworth Residents Association for review prior to the plan being submitted to Council; and that the plan not include the widening of White Pine Drive for a full lane of traffic. This motion was seconded by Vice-Mayor Moore.

Glen Kelly, Attorney representing the Asheville Mall, said Council should not "walk away" from their motion made in December, 1987 for the "T" intersection and the widening of White Pine Drive. He said workable solution needs to be addressed in the spirit of what was voted upon in December, 1987.

Rick Coleman, owner of Asheville Mall, also spoke relative to the need to come up with a workable solution for the "T" intersection and the traffic problem at Brackettown Road and White Pine Drive.

Pete Murphy, President of the Kenilworth Forest Association; Phil Noblett, 297 White Pine Drive; and Rendall Davis, spoke in opposition to the plan proposed by the Public Works Department. They said they did not want another lane of traffic on White Pine Drive. They supported Councilman Price's motion to direct the staff to come up with another proposal to be reviewed by the Kenilworth Forest Association and for the plan not to include another lane of traffic on White Pine Drive.

Councilman Ellison said he would like to know the cost for the City of Asheville to widen White Pine Drive.

Councilman Ellison made a substitute motion to table the issue for further discussion during a Pre-Council Work Session. This motion was seconded by Councilman Estes, which motion failed on a voice vote of 6-1, with Councilman Ellison voting "aye".

Councilman Price's motion passed on a 6-1 voice vote, with Councilman Ellison voting "no".

F. Resolution No. 91-132 - Resolution authorizing the Mayor to execute a supplemental agreement with Thompson Gordon Shook Engineers for Thompson Street, Chestnut Street, Hazel Mill Road and Murdock Avenue Bridge Projects.

The City Manager said the original Engineering Agreements for Thompson Street, Murdock Avenue and Hazel Mill Road Bridges were done in July of 1985. The agreement for Chestnut Street was done in April of 1983. Due to delays beyond the control of the City and Thompson Gordon Shook, construction contracts for these projects were not executed until the Fall of 1990. During this 5 to 7-year period, the cost of providing the engineering services, as outlined in the original engineering agreements, have increased due to changes required in the scope of services and due to inflation factors.

The Supplemental Agreements will allow Thompson Gordon Shook Engineers to recover their actual expenditures for services outlined in the original engineering agreements.

Mayor Michalove said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Price, seconded by Vice-Mayor Moore, Resolution No. 91-132 was unanimously adopted.

Resolution Book No. 18 - Page No. 478

G. Resolution No. 91-133 - Resolution approving the bids for the construction of the Fleet Management Service Station.

The City Manager said on June 6, 1991, separate bids were received for the prime work, general work, electrical and installation, and HVAC/plumbing for construction of the Fleet Management Service Station Project.

Three (3) bids were not received for each of the general, electrical, and HVAC/plumbing for the project.

The City therefore re-bid those components and those second bids were received on June 18, 1991; and

W. K. Dickson Engineers have reviewed the bids and has recommended that the bids be awarded for the combined projects to the lowest responsible bidders as follows:

Single-Prime Jones and Frank Greenville, South Carolina	$ 390,560.00
General Work T.P. Smith Construction Co. Forest City, North Carolina	360,400.00
HVAC/Plumbing Moser, Inc. Asheville North Carolina	18,500.00
Electrical M.B. Haynes Corporation Asheville, North Carolina	19,195.00

Mayor Michalove said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Vice-Mayor Moore, seconded by Councilman Frank, Resolution No. 91-133 was unanimously adopted.

Resolution Book No. 18 - Page No. 477

H. Consideration of bids received for one (1) All-Wheel Drive Pumper for the Fire Department.

The City Manager said bids were opened on June 18, 1991 and recommendation is to the second low bidder meeting specifications, Central States Fire Apparatus, Lyons, South Dakota, for one (1) 1992 "International Navistar" Model 4800 4x4 cab and chassis with "Central States" Model AWDS 7575 body and assorted options for a total of $124,426.97.

A complete copy of the bid summary is on file in the Office of the City Clerk.

Vice-Mayor Moore moved to accept the recommendation of the City Manager to award the bid to the second low bidder, Central States Fire Apparatus for the Drive Pumper. This motion was seconded by Councilman Price and carried unanimously.

I. **Ordinance No. 1937 - Budget ordinance amendment to appropriate for one (1) All-Wheel Drive Pumper for the Fire Department.**

The City Manager said the Beaverdam Annexation Plan for Services called for an all-terrain vehicle for the annexation. Bids for this vehicle have been evaluated by the Fire Department with consultation given by David Pruett, Fleet Management. This amendment will set up appropriation to purchase 4 X 4 fire pumper in the amount of $125,251.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Price moved for the adoption of Ordinance No. 1937. This motion was seconded by Vice-Mayor Moore.

On a roll call vote of 7-0, Ordinance No. 1937 passed on first and final reading.

Ordinance Book No. 12 - Page 473

J. **Ordinance No. 1938 - Budget ordinance amendment to appropriate funds for the construction of the Fleet Management Service Station.**

This ordinance is to appropriate funds to proceed with replacement of the City's Service Station and tanks.

The project replaces the City's 30-year old service station building, the computer gas recorder, and the gas tanks and lines (as required by EPA). This amendment includes the cost for construction, $390,560, 5% additional A&E fees, and a 10% contingency. This amount is critical to the project as we may find that the tanks have leaked and will require special clean-up efforts.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Price moved for the adoption of Ordinance No. 1938. This motion was seconded by Vice-Mayor Moore.

On a roll call vote of 7-0, Ordinance No. 1938 passed on first and final reading.

Ordinance Book No. 12 - Page 474

K. Ordinance No. 1939 - Budget ordinance amendment to appropriate funds for the Rental Rehabilitation Program.

The City Manager said the City has received funding approval of $29,000 from HUD through the Rental Rehabilitation Program. This amendment will appropriate the funds into the City Budget. The Program is subcontracted with the Housing Authority for administration. All grant funds are used for deferred payment loans to investor/owners of substandard rental property. Loan proceeds must be matched by private funding commitment to complete the rehabilitation. Administrative cost of the Housing Authority is paid with CDBG funds.

The borrower must agree to rent the units to low-moderate income persons for ten (10) years and advertise that rental will be on a non-discrimination basis. The loan amount cannot exceed 50 percent of the rehab cost per unit up to a maximum of $8,500 per unit. The loan is forgiven at a rate of 10 percent per year provided the owner adheres to program requirements.

The Rental Rehab Program has provided $461,315 for 44 loans to investor/owners since inception of the program in 1985 for rehabilitation of 82 rental units. Owner matching funds for these loans totalled $676,192. Investment, therefore, for the 82 units has been $1,137.507.

This budget amendment will appropriate the $29.000 for the Rental Rehabilitation funds.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Price moved for the adoption of Ordinance No. 1939. This motion was seconded by Vice-Mayor Moore.

On a roll call vote of 7-0, Ordinance No. 1939 passed on first and final reading.

Ordinance Book No. 12 - Page 475

L. Ordinance No. 1940 - Budget ordinance amendment to appropriate funds for exhaust system at Fire Station No. 1.

The City Manager said the Fire Department's 5-year, Fire Station Safety Improvement Plan, calls for installation of exhaust fume removal equipment in all fire stations. This appropriation would provide for installation of a diesel exhaust removal system at Station No. 1 (Headquarters Station), Asheville's largest station, where exhaust removal capability is most needed.

Installation of diesel exhaust removal systems will significantly reduce firefighter exposure to the carcinogenic components of diesel exhaust fumes identified by EPA and the National Institute of Occupational Safety and Health.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Price moved for the adoption of Ordinance No. 1940. This motion was seconded by Vice-Mayor Moore.

On a roll call vote of 7-0, Ordinance No. 1940 passed on first and final reading.

Ordinance Book No. 12 - Page 476

V. CONSENT:

A. Schedule public hearing relative to application for Transit Operating Assistance Grant for the Asheville Transit Authority for Fiscal Year 1992 for September 10, 1991.

B. Resolution No. 91-134 - Resolution appointing member to the Planning and Zoning Commission.

SUMMARY: The term of Dr. Albert Anderson expires on August 14, 1991. This resolution will reappoint him to a 2-year term, term expiring August 14, 1991, or until his successor is duly appointed and qualified.

Resolution Book No. 18 - Page 480

C. **Resolution No. 91-135 - Resolution appointing member to the Tourism Development Commission.**

SUMMARY: The term of John Winkenwerder expires on August 30, 1991. This resolution will reappoint him to a 3-year term, term expiring August 30, 1994, or until his successor is duly appointed and qualified.

Resolution Book No. 18 - Page 481

D. **Resolution No. 91-136 - Resolution authorizing the Mayor to execute utility agreement with the N. C. Department of Transportation for the relocation of water lines in conjunction with the construction of a bridge over Southern Railway on US 25A - Project No. B-1063 (8.1840801).**

Resolution Book No. 18 - Page 482

E. **Resolution No. 91-137 -Resolution authorizing the Mayor to execute utility agreement with the N. C. Department of Transportation for the installation of a 24-inch water line on US 25 between the Blue Ridge Parkway and Rock Hill Road - Project No. U-0090B (8.1841603).**

Resolution Book No. 18 - Page 483

F. **Resolution No. 91-138 - Resolution authorizing the Mayor to execute on behalf of the City of Asheville Amendment No. 1 to Federal Aviation Grant Agreement, Project No. 3-37-0005-07.**

Resolution Book No. 18 - Page 484

G. **Resolution No. 91-139 - Resolution authorizing the City Manager or his designee to process and execute Local Government Commission Opinion Forms for applications for ABC permits.**

Resolution Book No. 18 - Page 485

Upon motion of Vice-Mayor Moore, seconded by Councilman Bratton, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

A. **Keith Goode - Student Government - UNC-A**

Mayor Michalove introduced Keith Goode with the Student Government at UNC-A. Mr. Goode said he would be working with members of Council and attending Council meeting in order to inform students at UNC-A about actions taken by local governments.

B. **Pinecliff Condominiums - Revised Site Plan**

Jerry Crow, Attorney representing Pinecliff Condominiums, appeared before Council stating that his client had been denied a building permit to construct a building for Pinecliff Condominiums. He said this project was approved by Council and a revised site plan approved. He said one of the major reasons that a building permit was denied is that the new road had a grade in excess of the required 15%. He said only a portion of the road is in excess of the required 15% approved grade and in his opinion a building permit should have been issued because the final roads have not been completed. He said to deny the building permit at this time is premature. He said when the project is completed if the project does not meet all the requirements then the Certificate for Occupancy could be withheld.

Upon inquiry of Council, the City Attorney said the Building Inspector makes the determination on the issuance of a building permit. He said if the developer has a zoning problem the matter could be appealed to the Board of Adjustment. He said if the road grades are steeper that approved the developer could appeal to the Planning and Zoning Commission; however, Council is the only body that can change the approved street grade of 15%.

After discussion, Councilman Ellison moved that this matter be discussed during Council's work session scheduled for August 13, 1991. This motion was seconded by Vice-Mayor Moore and carried unanimously.

C. **Resolution No. 91-140 - Resolution authorizing the City Attorney to file a Complaint and Declaration of Taking**

and other related documents in the Buncombe County Superior Court for the condemnatio of parcels of real property located in the South Asheville Annexed Area for the construction and installation of a sewer/wastewater line.

Resolution Book No. 18 - Page 485

D. CLAIMS - David Lynn (Inspections)- Carolyn Ray (Fire) - Gary Brooks (Water) - Stephen Evans (Water) - Gail Gaillock (Sanitation) - Edna Goggans (Streets) - Perry Phillips (Water) - Mary Alice Fishburne (Water) - Michael Wyatt (Water) - James Green (Water)

The City Manager said claims were received from David Lynn, Carolyn Ray, Gary Brooks, Stephen Evans, Gail Gaillock, Edna Goggans, Perry Phillips, Mary Alice Fishburne, Michael Wyatt, and James Green..

Mayor Michalove said the claims have been referred to the appropriate insurers for investigation.

E. LAWSUITS - Biltmore Square Associates, et al (Annexation) - Terry Moore and Jeanette Moore (Sewer Backup)

The City Manager said the City was served with a lawsuit on July 5, 1991 and July 18, 1991, involving Biltmore Square Associates, et al (Challenge of annexation of Brevard Road area) and Terry Moore and Jeanette Moore (Property damage from alleged sewer backup).

Mayor Michalove said these lawsuits have been referred to the appropriate legal counsel for action.

VII. ADJOURNMENT:

Mayor Michalove adjourned the meeting at 8:50 p.m.

I.C. Michalove
MAYOR

William D. Wolcott
CITY CLERK

Tuesday - August 13, 1991

City Council Work Session

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Wilhelmina Bratton, Mary Lloyd Frank, Norma T. Price, Eugene W. Ellison and William W. Estes; Assistant City Attorney Patsy Brison; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Ordinance No. 1935 - Ordinance amending zoning of property located on W. T. Weaver Boulevard and Nantahala Street (Petition of Carroll Hughes, Agent for Owners

Mayor Michalove said the ordinance was previously read on first reading and will not be reread in its entirety.

On a roll call vote of 7-0, Ordinance No. 1935 passed on second reading.

Councilman Estes moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1935. This motion was seconded by Councilman Ellison which motion was defeated on a vote of 3-4, with Mayor Michalove, Councilmen Bratton, Frank and Price voting no.

Mayor Michalove stated that the third and final reading of this ordinance would be held at next week's Council meeting.

Ordinance No. 1936 - Ordinance amending zoning of property located at 6 Clairmont Avenue and identified as PIN # 9740-18-41-4861 on the Buncombe County tax maps

Mayor Michalove said the ordinance was previously read on first reading and will not be reread in its entirety.

On a roll call vote of 6-1, Ordinance No. 1936 passed on second reading, with Vice-Mayor Moore voting no.

Mayor Michalove stated that the third and final reading of this ordinance would be held at next week's Council meeting.

Pinecliff Condominiums

Gerald Green, Senior Planner, read the following memorandum dated August 12, 1991, to the members of Council:

"I am providing in this memo information regarding the issuance of building permits for construction related to the Pinecliff Condominiums project. Approximately twenty-four (24) permits were issued for the project prior to Planning Department staff becoming aware of the street grade problem

in late June, 1990. These permits were for the construction and interior finishing of fifteen (15) buildings.

"One building permit has been issued since Larry Traber was directed by the Planning and Zoning Commission and the City Council to replace the section or road with a grade in excess of 25% with a road with a maximum grade of 15%. In September, 1990, Mr. Traber requested a permit for the construction of Building N. The following arguments were used by Mr. Traber to justify the request.

1. The road meeting the requirements of the Planning and Zoning Commission and the City Council was under construction. This demonstrated the developer's good intention in complying with the City's requirements;

2. The building for which the permit was requested was shown on the original plans approved in 1987; and

3. Denying the permit would place a severe financial hardship on the project and the developer, possibly causing the project to declare bankruptcy.

"After reviewing the request and hearing Mr. Traber's arguments, it was the decision of the Planning Department staff to approve the issuance of the building permits. This decision was based on what appeared to be the good faith effort of the developer to comply with the City's requirements. Additionally, the goal of the City was to assure that the project was build (sic) in accordance with approved plans, not to place a financial hardship on the developer.

"No additional permits were requested or granted for the project until July, 1991, when Mr. Traber requested a permit for another four unit building. He was requested to provide information regarding the location and grade of the road constructed to meet the requirements established by the Planning and Zoning Commission and City Council. The information provided by Mr. Traber showed the road to have a grade in excess of the mandated 15%. At this time, the matter was presented to the Planning and Zoning Commission for their consideration.

"I trust that this information will be useful to you. Should you have any questions or require additional information, please let me know."

Mr. Green stated that the Planning and Zoning Commission reaffirmed their prior action of keeping the street grade at a maximum of 15%.

Upon inquiry of Councilman Price, Mr. Green stated that the road grade varies from 15.75% up to 24%, depending on the point in the road you measure from.

Councilman Ellison was interested in working out some type of compromise on the street grade issue with the developer.

Patsy Brison clarified the appropriate procedure for revisions to a site plan. She said the action of the Planning and Zoning Commission which reaffirmed their prior action would be final unless the Council determined to set a public hearing. She said that as there was no specific statutory requirement for advertisement of the public hearing on revisions to site plans, the City should advertise as is the practice of the City Clerk's Office for these type of matters. City Clerk Wolcott reported that those matters were usually advertised only once prior to the public hearing. As a result, Ms. Brison stated that the public hearing could be scheduled for August 20, with one advertisement before that date.

When asked by Council, Jim Ewing, Director of Public Works, and John Rukavina, Fire Chief, stated that they would accept (1) the lowering of a certain intersection (which grade is now 24%) to a maximum of 18%, and (2) a turnaround area be furnished at the top of the development so that the service vehicles did not have to come back down the even steeper slope on the north side of the project. They felt with those guarantees they would be able to provide services in a safe manner.

Councilman Ellison suggested that some language be inserted in an ordinance stated exactly how the City will measure the street grades, by points or by 50 foot increments, so that future developers will not be confused about how to measure the street grade.

Vice-Mayor Moore felt that the City Council should support Planning and Zoning Commission rules made regarding the proper process to be followed relative to site plans.

Mr. Green gave the Council their options at today's meeting which were either to take no action, which would make the Planning and Zoning Commission's action final, or to schedule a public hearing on this matter.

Upon inquiry of Councilman Bratton, Ms. Brison explained how the Board of Adjustment comes into play in the whole street grade process.

Jerry Crow, attorney for the developer, urged the Council to set a public hearing on the matter, assuring the Council that the developer would be willing to work with the City on the conditions required by the Public Works Department and

Fire Department. Mr. Crow gave copies of a survey map to Council showing the various street grades in various roads. He stated that the steepest road is merely an access road from the living area to the swimming pool and not a main traffic road which service vehicles would be using.

Vice-Mayor Moore stated that the Planning and Zoning Commission voted against the process the developer followed, not the increasing of street grades. In connection with this, Mr. Crow stated that it was not the intention of the developer to ignore the guidelines established by the Planning and Zoning Commission.

Councilman Estes moved to set a public hearing on this matter for August 20, 1991, and asked that City staff meet with the developer to determine what compromise would be acceptable. This motion was seconded by Councilman Ellison and carried on a 5-2 vote, with Vice-Mayor Moore and Councilman Frank voting no.

Storm Water Utility Study - CH2M Hill Contract

The City Manager reported that CH2M Hill had prepared a proposed Amendment No. 4 to their existing contract to incorporate a storm water utility rate study. As there had been a previous question about the authority of cities in North Carolina to establish fees for a storm water utility, the North Carolina General Assembly adopted an act that authority during the 1991 Session. The fee proposed for the services is $94,500. The 1990 proposal for the same rate study was $89,777. CH2M Hill felt that their costs had increased by about 5% over the 1990 proposal and was therefore requesting a fee of $94,500.

Councilman Ellison moved to authorize the City Manager to offer payment in the amount of the 1990 proposal to CH2M Hill for the services. That motion was seconded by Councilman Estes and unanimously adopted.

H. M. Michaelis
MAYOR

Barbara D. Holcomb
CITY CLERK

Tuesday - August 20, 1991 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Assistant City Attorney Patsy Brison; Assistant City Manager Charles Penny; and Associate City Manager/City Clerk William F. Wolcott

Absent: Councilman Norma T. Price; City Manager Douglas O. Bean; and City Attorney William F. Slawter.

INVOCATION

The invocation was given by Vice-Mayor Moore.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the minutes of the August 6, 1991 and August 13, 1991 meetings as submitted.

I. PROCLAMATIONS:

A. Resolution No. 91-141 - Resolution of appreciation to retiring employee, Robert Holmes.

Mayor Michalove read the resolution which stated that Mr. Holmes has been with the City for 23 years as a Fire Captain in the Fire Department and retired in May, 1991.

Upon motion of Councilman Ellison, seconded by Vice-Mayor Moore, Resolution No. 91-141 was unanimously adopted.

Mayor Michalove presented the resolution to Robert Holmes.

Resolution Book No. 18 - Page 488

B. Resolution No. 91-142 - Resolution of appreciation to retiring employee, Rayburn Whitt.

Mayor Michalove read the resolution which stated that Mr. Whitt has been with the City for 28 years as a District Fire Chief in the Fire Department and retired in May, 1991.

Upon motion of Councilman Ellison, seconded by Vice-Mayor Moore, Resolution No. 91-142 was unanimously adopted.

Mayor Michalove presented the resolution to Rayburn Whitt.

Resolution Book No. 18 - Page 489

C. Resolution No. 91-143 - Resolution of appreciation to retiring employee, James Carson.

Mayor Michalove read the resolution which stated that Mr. Carson has been with the City for 19 years as a Firefighter Sr. in the Fire Department and retired in May, 1991.

Upon motion of Councilman Ellison, seconded by Vice-Mayor Moore, Resolution No. 91-143 was unanimously adopted.

Mayor Michalove presented the resolution to James Carson.

Resolution Book No. 18 - Page 490

D. Resolution NO. 91-144 - Resolution of appreciation to retiring employee, Dan Worley.

Mayor Michalove read the resolution which stated that Mr. Worley has been with the City for 14 years as a Plumbing Inspections Specialist in the Fire Department and retired in June, 1991.

Upon motion of Councilman Ellison, seconded by Vice-Mayor Moore, Resolution No. 91-144 was unanimously adopted.

Resolution Book No. 18 - Page 491

E. Resolution No. 91-145 - Resolution of appreciation to retiring employee, Jack Taylor.

Mayor Michalove read the resolution which stated that Mr. Taylor has been with the City for 24 years as a Fire Captain in the Fire Department and retired in May, 1991.

Upon motion of Councilman Ellison, seconded by Vice-Mayor Moore, Resolution No. 91-145 was unanimously adopted.

Mayor Michalove presented the resolution to Jack Taylor.

Resolution Book No. 18 - Page 492

F. Resolution No. 91-146 - Resolution of appreciation to retiring employee, Larry Bradley.

Mayor Michalove read the resolution which stated that Mr. Bradley has been with the City for 13 years as a Fire Captain in the Fire Department and retired in July, 1991.

Upon motion of Councilman Ellison, seconded by Vice-Mayor Moore, Resolution No. 91-146 was unanimously adopted.

Mayor Michalove presented the resolution to Larry Bradley.

Resolution Book No. 18 - Page 493

G. Proclamation proclaiming September 14 - 22, 1991 as "French Broad River Week".

Mayor Michalove read the proclamation and presented it to Janie Wilson with Quality Forward.

I. Proclamation proclaiming August 30 and 31, 1991 as "Goombay Festival Days."

Mayor Michalove read the proclamation and presented it to Margaret Fuller with the YMI Cultural Center.

II. PUBLIC HEARINGS:

A. Public hearing relative to an amendment to revised site plan for Pinecliff Condominiums.

Mayor Michalove opened the public hearing at 4:22 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing.

Jim Ewing, Director of Public Works, said a meeting was held on August 16, 1991 with the developer, Larry Traber and Gerald Green, Senior Planner, to discuss proposed revisions to the development's road system. He said as a result of this meeting the following improvements are recommended: 1) Reconstruction of the intersection east of buildings J and K to provide a section of road with a grade not to exceed 13%. The cross slope of this section of road shall not exceed 8%. This section of road shall be used to provide access from the lower portion of the development to the upper portion; and 2) Designation of a parking area north of building P, currently used for visitor parking, as a no parking area between the hours of 7 AM and 4 PM. This area would be used as a turn around area for garbage trucks and other service vehicles. He said with these improvements garbage service can be provided to the development.

John Rukavina, Fire Chief, said, in his opinion, the recommendation of the Public Works Director is the best solution that can be arranged for the project's road system.

Jerry Crow, Attorney for the developer, said his client would accept the recommendation of the Public Works Director.

Patsy Brison, Acting City Attorney, reminded members of Council that at one time the project had some erosion control problems that have been corrected with new erosion control measures. However, she said Council should be aware of the outstanding civil penalties with regard to the erosion control problems.

Councilman Ellison moved to approve the amendment to the revised site plan for Pinecliff Condominiums subject to the recommendation of the Public Works Director as follows: 1) Reconstruction of the intersection east of buildings J and K to provide a section of road with a grade not to exceed 13%. The cross slope of this section of road shall not exceed 8%. This section of road shall be used to provide access from the lower portion of the development to the upper portion; and 2) Designation of a parking area north of building P, currently used for visitor parking, as a no parking area between the hours of 7 AM and 4 PM. Further, not to be included as a stipulation for approval of the amendment to the site plan, the City Council would

like to see the outstanding civil penalties imposed as a result of the erosion control problems resolved prior to the issuance of any more building permits for the Pinecliff Condominiums Project. This motion was seconded by Councilman Frank and carried unanimously.

Presentation of resolution of appreciation to retiring employee, Howard Stamey

Mayor Michalove said a resolution of appreciation for retiring employee, Howard Stamey was adopted several weeks ago and Mr. Stamey was unable to attend the meeting at that time.

Mayor Michalove then publicly presented the resolution to Mr. Howard Stamey.

B. **Continuation of public hearing relative to a proposed wording amendment to the Zoning Ordinance - Neighborhood Parks.**

Councilman Bratton moved to continue the public hearing relative to Neighborhood Parks until September 10, 1991 without further advertisement. This motion was seconded by Councilman Estes and carried unanimously.

III. OLD BUSINESS:

A. **Ordinance No. 1935 - Third reading of an ordinance relative to rezoning property located on W. T. Weaver Boulevard (portions of Ward 2, Sheet 8, Lots 3 and 105 and a portion of Lot 94) from R-3 Residential District to OI Office Institutional District.**

Mayor Michalove said the Asheville Planning and Zoning Commission on June 5, 1991, reviewed and recommended approval of rezoning Ward 2, Sheet 8, Lots 3 and 105 and that portion of Lot 94 which is shown as Lot 19 on the plat recorded in Plat Book 13 at Page 100 of the Buncombe County Registry. This public hearing was scheduled at the July 8, 1991 meeting. On July 23, 1991, a public hearing was held and this ordinance passed on first reading. This ordinance passed on second reading on August 6, 1991.

Mayor Michalove said the ordinance was previously read on second reading and will not be reread in its entirety.

On a roll call vote of 6-0, Ordinance No. 1935 passed on third and final reading.

Ordinance Book No. 12 - Page 471

B. Ordinance No. 1936 - Third reading of an ordinance relative to the partial rezoning of property located at 6 Clairmont Avenue from R-3 Residential District to CH Commercial Highway District (Petitioner, Groce Properties).

Mayor Michalove said the Asheville Planning and Zoning Commission on July 3, 1991, reviewed and recommended approval of only rezoning a portion of Ward 9, Sheet 6, Lot 36 (Pin #974018414861000) from R-3 Residential District to CH Commercial Highway District, leaving a 10-foot strip along Clairmont Avenue zoned R-3. This public hearing was scheduled at the July 23, 1991, meeting but was continued until August 6, 1991. On August 6, 1991, the public hearing was held, and this ordinance passed on first reading. This ordinance passed on second reading on August 13, 1991.

Mayor Michalove said the ordinance was previously read on second reading and will not be reread in its entirety.

Rendall Davis submitted the following letter on behalf of the Asheville Coalition of Neighborhoods:

"The Asheville Coalition of Neighborhoods requests City Council to table the action on rezoning the Groce property, numbers 4 and 6 on Claremont Street, pending the outcome of the UDO process.

The precedent for this is found in a similar action by the Planning and Zoning Commission which tabled the motion to rezone properties on Liberty Street in 1990, pending the development of the UDO. At the moment, the UDO committee and sub-committees are considering the definition of a North Asheville hub, and premature action by Council on the above issue may inappropriately influence the process.

This request of CAN was passed at it meeting on August 19, 1991."

Mayor Michalove said he felt the rezoning petition of Clairmont Avenue is different from the Liberty Street rezoning in that the Planning and Zoning Commission passed on to City Council a recommendation for rezoning the property on Clairmont Avenue.

Mike Lewis, 48 Gracelyn Road, strongly opposed the rezoning of the property in question on Clairmont Avenue.

Janie Wilson, 22 Maywood Road, spoke in opposition to the rezoning stating that the residential/business operation is not compatible in this particular area.

Merritt Mosely, 40 Gracelyn Road, spoke in opposition to the rezoning, stating that the rezoning would have a negative impact on the properties in the area.

Kevin McDonald, 11 Clairmont Avenue, spoke in opposition to the rezoning.

Carol Woodard spoke in opposition to the rezoning.

Jean Warner spoke in opposition to the rezoning and in support of the letter from the Asheville Coalition of Neighborhoods.

Mayor Michalove noted that the Planning and Zoning Commission unanimously recommended rezoning of the property as requested.

Larry McDevitt, Attorney for the petitioner, spoke in support of the rezoning.

On a roll call vote of 5-1, Ordinance No. 1936 passed on third and final reading, with Vice-Mayor Moore voting "no".

Ordinance Book No. 12 - Page 472

C. Ordinance No. 1923 - Third reading of Ordinance amending Chapters 25 and 26 of the Code of Ordinances of the City of Asheville (Street Grades).

Patty Tallerday, Acting Director of Planning, said the Planning and Zoning Commission at its August 6, 1991 meeting suggested that the ordinance be amended to provide that grades on local residential

streets shall not exceed fifteen percent (15%) unless the Planning and Zoning Commission determines that a modification should be allowed due to topographical or other conditions peculiar to the subdivision site. Appeals could be made to the City Council.

Assistant City Manager Charles Penny suggested that the ordinance include language that the standard for measuring street grades shall be the current standards for the American Association of State Highway Transportation Officials ("AASHTO"), or its successor organization.

After discussion, Councilman Ellison moved to amend Ordinance No. 1923 to provide that grades on local residential streets shall not exceed fifteen percent (15%) unless the City Council determines, after recommendation by the Planning and Zoning Commission, that a modification should be allowed due to topographical or other conditions peculiar to the subdivision site. Further, that the ordinance provides that standards for measuring street grades shall be the current standards for the American Association of State Highway Transportation Officials ("AASHTO"), or its successor organization. This motion was seconded by Councilman Estes.

Vice-Mayor Moore made a motion to amend Councilman Ellison's motion to provide that grades on local residential streets shall not exceed 15% and the Planning and Zoning Commission shall have the authority to grant street grade modifications from 15% to 18%, and all street grade modifications above 18% must be approved by City Council.

Acting City Attorney Patsy Brison said she would not recommend the adoption of an ordinance that has two different levels of approving authority. She said it is very likely that the two approving authorities would have different guidelines for approving modifications. She said standard guidelines could be established, however, and those guidelines should be made available to the developers.

After discussion, Vice-Mayor Moore withdrew his motion.

Councilman Frank made a motion to amend Councilman Ellison's motion to provide that the grades on local residential streets shall not exceed twelve percent (12%). This motion was seconded by

Councilman Bratton, which motion failed on a voice vote of 4-2 with Councilman Frank and Councilman Bratton voting "aye".

On a voice vote of 6-0, Councilman Ellison's motion to amend Ordinance No. 1923 was unanimously adopted.

On a roll call vote of 6-0, Ordinance No. 1923, as amended, passed on third and final reading.

Ordinance Book No. 12 - Page 439-442

D. Ordinance No. 1924 - Third reading of Ordinance amending Chapter 30 of the Code of Ordinances of the City of Asheville (Street Grade Requirements).

Mayor Michalove said this ordinance provides for street grade requirements to be applicable to group developments. This ordinance passed on first reading on June 18, 1991 and on second reading on July 8, 1991. On July 23, 1991 the third reading was postponed until August 6, 1991 and then postponed again until August 20, 1991.

Mayor Michalove said the ordinance was previously read on second reading and will not be reread in its entirety.

On a roll call vote of 6-0, Ordinance No. 1924 passed on third and final reading.

Ordinance Book No. 12 - Page 443

E. Ordinance No. 1929 - Third and final reading of an ordinance relative to the rezoning of 466 Swannanoa Road from LI Light Industrial District to CS Commercial Service District and rezoning of 456 Swannanoa Road from CH Commercial Highway to CS Commercial Service District.

Patty Tallerday, Acting Director of Planning, said they had received notice from the petitioner, Mr. Wes Morgan, relaying his decision to withdraw his rezoning request of 466 and 456 Swannanoa River Road. Because of the suggestion that he do just that by Council, he will not longer pursue the third and final reading on this matter.

She said at the request of the City Manager, the Planning Department staff and City Attorney's Office are currently reviewing amended draft

language prohibiting bulk gas and gasoline storage in the Commercial Service District.

Mayor Michalove said since the petitioner withdrew his request for rezoning no other action would be taken on this ordinance.

F. **Ordinance No. 1931 - Second reading of an ordinance relative to the adoption of an Ordinance amending Article 9 of Chapter 30 of the Code of Ordinances of the City of Asheville (Standards for Designating Historic Signs).**

Kent Newell, Executive Director of Historic Resources Commission, reviewed the following memorandum to members of Council relative to Historic Signage:

"TO: City Council
Doug Bean, City Manager
Patsy Brison, Assistant City Attorney

FROM: Kent R. Newell

SUBJECT: Historic Signage

DATE: August 16, 1991

On July 23, 1991 the Asheville City Council considered an ordinance amending Article 9 of Chapter 30 regarding the standards for designating historic signs. After review of Section 30-9-3C as recommended by the Planning and Zoning Commission, City Council amended item 12.a of Section 30-9-3c so that signage of 25 years or older would be eligible for designation. The City Council passed the ordinance as amended on the first reading.

After receiving the information regarding Council's action, the Historic Resources Commission is concerned that:

a) the amendment to Section 30-9-36-12.a does not accurately reflect a period of historical, cultural, or architectural development within the City of Asheville.

b) the protection of a sign as a cultural artifact should be contextual to a period in American history that represents an identifiable/distinct cultural tradition, exhibits craftsmanship of the period, or is unique to the cultural tradition of the community.

c) signs threatened due to nonconformance with the Asheville Sign Ordinance would not be altered until the expiration of the amortization period on August 22, 1995. Therefore, any suggestions for age limitations should be considered from that point forward.

d) the strength of the ordinance lies in the justification of criteria. An established limit on the age of a sign should be historically contextual.

As a result of these concerns, the HRC further investigated historic signage issues and would make the following recommendations:

1. although the HRC would recommend a sign be in existence for 50 years as per the criteria established by the National Register of Historic Places, a limit of 40 years could be justified based on other accepted standards.

2. an identifiable shift in cultural patterns, circa-1955 have been recognized on local and national levels. Circa-1955 could be initially established as a cut-off point. If we consider the expiration of amortization in 1995, a 40-year provision would be most appropriate.

3. a survey of other historic sign ordinances have provided for age limits set between 35-50 years. If this does not seem reasonable, then age limitations should not be established and strict interpretation of other provisions in the ordinance be provided for.

4. for those signs and structures that would not meet the criteria established under the "Standards for Designating Historic Signs", we may want to consider a Landmark Signage Provision.

Mayor Michalove said property owners interested in historical signs should be informed of what Council is considering and said the second reading of this ordinance would be postponed, without further advertisement, until September 10, 1991.

Councilman Ellison requested that the staff check with the National League of Cities and the North Carolina League of Municipalities to see if they have any information on other cities establishing standards for designating historic signs. He said

it was his understanding that the City of Raleigh had considered a similar ordinance but did not adopt it. He requested that staff check with the City of Raleigh to see why they did not adopt the ordinance.

IV. NEW BUSINESS:

A. **Semi-Annual report relative to 2010 Plan.**

Mike Moser, Chairman of the Planning and Zoning Commission, highlighted a semi-annual report on the 2010 Plan. (A copy of the report is on file in the Office of the City Clerk)

B. **Report by Mike Moser - UDO - Update**

Mike Moser said the Asheville Planning and Zoning Commission and the Planning Department staff have been working on the preparation of a Unified Development Ordinance since January 1991. He said at this time the Commission and staff are basically on schedule with this major undertaking. He said one of the first actions taken in this process was the formation of the UDO Committee, composed of all members of the Planning and Zoning Commission, two members of the City Council, and one member of the Board of Adjustment. He outlined the accomplishments of the UDO Committee and of the Planning Department staff. (A copy of the status report is on file in the Office of the City Clerk)

C. **Motion to approve final plat for the Thornridge II Subdivision located on Haw Creek Road.**

Don Sherrill, Planning Department, said the Asheville Planning and Zoning Commission reviewed and approved the preliminary plat for the Thornridge Phase II Subdivision on March 7, 1990, and affirmed that approval on August 7, 1991, recommending that City Council grant a variance (modification) on the street width, thereby allowing a street width of 45' for a 35' section of the road near the entrance to the subdivision. The six (6) lot subdivision is located on Old Haw Creek Road near its intersection with Keasler Road. In lieu of installing utility improvements and constructing the required street, the developer has provided a letter of credit to guarantee the construction of all improvements. The form of this letter of credit has been approved by the City Attorney's Office and the amount approved by the Public Works Department.

Mr. Sherrill reviewed the location and the particulars for this subdivision. He said the developer is requesting a variance (modification) in the required right-of-way width for a 35' section of the roadway at the entrance. He said a 60' right-of-way is required and if the variance (modification) is granted the first 35' section of the entrance into the subdivision would be 45'.

After discussion, Councilman Estes moved to approve the final plat for the Thornridge Phase II Subdivision including the requested variance (now "modification") in the required right-of-way width for a 35' section of the roadway at the entrance to the subdivision, said right-of-way to be 45' for this 35' section. This motion was seconded by Councilman Ellison and carried unanimously.

D. **Discussion relative to new parking meters for the downtown.**

The Assistant City Manager said the Downtown Commission has recommended that 297 parking meters in the Downtown area be replaced with the following specifications: 1) $.25 per hour with maximum of two (2) hours (partial time, i.e., $.05 for 12 minutes is possible); 2) Double headed meters on post, where possible; 3) Multiple coin apparatus only; 4) Where advantageous, program meters for free grace period of 20 minutes at the beginning of meter time. He said the current meter revenue is: Budget: 90-91 $18,000.00 - Actual: 90-91 $19,812.50. He said the projected meter revenue if all 297 meters are converted to $.25 would be converting $95,000.00. He said the estimated capital cost of converting 297 meters, at $81.01 for conversion kits, is $24,060. He said funds in the amount of $30,000 have been appropriated in the C.I.P. Budget for this expenditure.

Upon inquiry of Council, Leslie Anderson, Downtown Development Director, said the double headed meters on posts would improve the appearance downtown. She said this method has been used in other cities with no confusion.

Chris Peterson, owner of two restaurants and one night club downtown, said no one has asked the downtown business owners their opinions about the parking meters and increased rates. He said some individuals and businesses downtown are very discouraged over the proposed increased parking rates. He said the City could save money by just

leaving the meters like they are or phasing in the new meters. He suggested that a survey be taken of the businesses downtown in order to receive their input. He said this proposal may hurt the downtown businesses.

Barbara Field, Downtown Commission member, said notices were sent to downtown businesses about this proposal and they were invited to attend a meeting of the Downtown Commission to discuss the parking meter proposal.

Chris Johansen, 33 Haywood Street, presented a written statement to members of Council relative to the replacement of parking meters. He said if there are to be changes he would suggest that this be accomplished in phases with the first phase to address existing meters; the second would be to install additional meters in a small area of Battery Park, where the merchants have requested them, after reconfirming those requests, and the third, if and only if the Battery Park test were adjudged to be a success and desirable, would be to install meters downtown generally.

Mr. Johansen said replacement of existing meters with new, multi-coin heads, 25 cents per hour, seems to be the best course to take at this time because many units need repair now, money is already set aside, one rate increase in twenty years is not unreasonable, multi-coin heads would still accept nickle coins (for twelve minutes -- presently, parkers having coins but not nickles at hand are inconvenienced), the new units are re-programmable, and this decision can be made with just a feeling for policy direction while work on a complete parking policy is still underway.

Harold Garland said he had personally taken a survey of downtown businesses to get their feelings on this matter. He said most downtown businesses are opposed to the parking meter proposal. He said they also said they were not invited to a meeting of the Downtown Commission regarding the parking proposal. He said the new proposal includes a lot of unnecessary costs.

Councilman Ellison suggested that a public hearing be held relative to the parking proposal in order to give everyone an opportunity to be heard on the matter. He said the parking meters serve the businesses downtown and these business owners should have an opportunity to express their opinion.

Councilman Bratton said she had not received any comments regarding the parking proposal and the matter had been well published by the news media and she did not feel a public hearing was necessary.

Councilman Estes said he felt the cost for the new meters should be investigated.

Ralph Bishop spoke in opposition to the parking proposal stating that increasing the parking fees downtown would hurt the downtown businesses.

After considerable discussion, Councilman Ellison said he was concerned that there had been no public notice about Council considering this parking proposal, that no survey was taken of the downtown businesses to receive their input, that some of the businesses downtown were not informed of this matter and he felt a part of the population was being left out of the process. He said individuals directly affected should be notified of this matter.

Don Martell, Chairman of the Downtown Commission, said he did not feel a public hearing would be necessary. He said the Downtown Commission thoroughly reviewed the parking proposal and all meetings of the Downtown Commission are open to the public. He suggested that Council accept the recommendation of the Downtown Commission.

After further discussion, Councilman Bratton moved that the City move ahead with the purchase of 297 parking meters with the following specifications: 1) $.25 per hour with maximum of two (2) hours (partial time, i.e., $.05 for 12 minutes is possible); 2) Double headed meters on post, where possible; 3) Multiple coin apparatus only; 4) Where advantageous, program meters for free grace period of 20 minutes at the beginning of meter time. This motion was seconded by Councilman Frank, which motion carried on a voice vote of 4-2, with Councilman Ellison and Councilman Estes voting "no".

PARKING GOAL STATEMENT

Councilman Frank and Councilman Bratton presented members of Council with the following Parking Goal Statements:

"It is the goal of the City of Asheville to make certain that adequate parking downtown is provided for all our citizens at a fair cost.

We think that as the City continues to develop in the future the three City garages - Civic Center, Rankin and Wall Street - should continue to operate as an Enterprise Fund, and as surplus in fee should be applied to supplement the Capital Improvement Fund which is being used to amortize the debt service on the Rankin and Wall Street garages."

"To progressively market and systematically manage parking in the central downtown core in order to accomplish economic growth, firm yet sensitive enforcement and a break-even position in the Parking Enterprise Fund (balancing revenue with operations, small capital and general maintenance)."

E. Approval of "Permit to Repair or Alter a Type VI Building in the Fire District." - 12 Ravenscroft Drive.

John Rukavina, Fire Chief, said the applicant, Trinity Episcopal Church, is requesting a permit to repair or alter a Type VI building in the Fire District. Section 303.4 of the N.C. State Building Code states: "No type VI Building or structure shall be erected, repaired, moved into the Fire District, or addition thereto except upon the permit of the Local Inspections Department approved by the City Council, and approved by the Commissioner of Insurance or his designee."

Chief Rukavina said Trinity Episcopal Church is proposing to remodel 12 Ravenscroft Drive for Trinity Place Runaway Shelter. He said the Building Inspections Division reviewed the plans and has determined that the building will be safer.

Councilman Estes moved to approve a "Permit to Repair or Alter a Type VI Building in the Fire District" at 12 Ravenscroft Drive. This motion was seconded by Vice-Mayor Moore and carried unanimously.

F. Ordinance No. 1941 - Budget Ordinance amendment appropriating funds for the After School Program.

The Assistant City Manager said this budget amendment in the amount of $36,400 is to

appropriate funds for the new After School Program at Isaac Dickson School.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Frank moved for the adoption of Ordinance No. 1941. This motion was seconded by Vice-Mayor Moore.

On a roll call vote of 6-0, Ordinance No. 1941 passed on first and final reading.

Ordinance Book No. 12 - Page 477

G. Resolution No. 91-147 - Resolution identifying area as being under consideration for annexation.

Patty Tallerday, Acting Planning Director, said on August 28, 1991, the current City of Asheville resolution which identifies area under consideration for annexation remains effective until Midnight August 28, 1991, pursuant to N. C. Gen. Stat. sec. 160A-49 (i). A new resolution of consideration adopted before that date which covers the same area will relate back to the date of the previous resolution, being August 29, 1989.

Mayor Michalove said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Vice-Mayor Moore, seconded by Councilman Bratton, Resolution No. 91-147 was unanimously adopted.

Resolution Book No. 18 - Page No. 494

H. Ordinance No. 1942 - Ordinance amending Section 28-81.3 and Section 28.81.4 of Article IV, Speed Regulations, of Chapter 28 of the Code of Ordinances of the City of Asheville.

Charles Penny, Assistant City Manager, said a request was received by the City Manager's office for a speed limit investigation on Oakland and Hibernia Roads. Also, the Traffic Division received a request for a speed limit investigation on Pinehurst Road. This request was made by Mr. William Barley of the Beverly Hills Homeowners Association. Following an investigation on each

of these street, it is recommended that speed limits be changed as follows:

Oakland Road - from 35 mph to 30 mph
Hibernia Road - from 35 mph to 30 mph
Pinehurst Road - from 35 mph to 25 mph

He said this recommendation is based on actual radar surveys and SPEEDCALC program findings.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Estes moved for the adoption of Ordinance No. 1942. This motion was seconded by Councilman Frank.

On a roll call vote of 6-0, Ordinance No. 1942 passed on first reading.

Councilman Bratton moved to suspend the rules and proceed to the second reading of Ordinance No. 1942. This motion was seconded by Councilman Ellison and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1942 passed on second reading.

Councilman Ellison moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1942. This motion was seconded by Vice-Mayor Moore and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1942 passed on third and final reading.

Ordinance Book No. 12 - Page 478 - 479

V. CONSENT:

A. Schedule public hearing relative to amending Chapter 30 of the Code of Ordinance of the City of Asheville to provide for Zoning Vested Rights for September 10, 1991.

B. Resolution No. 91-148 - Resolution authorizing the City Manager to execute two addendum schedules to the Unisys Surety Service Support Agreement Number

89060195 to provide computer hardware and software services.

Resolution Book No. 18 - Page 495

C. Resolution No. 91-149 - Resolution authorizing the Purchasing Director to sell surplus motor vehicles, equipment, and other surplus property at Public Auction.

Resolution Book No. 18 - Page 496

D. Resolution No. 91-150 - Resolution authorizing the Purchasing Director to dispose of surplus property consisting of Air Packs from the Asheville Fire Department.

Resolution Book No. 18 - Page 497

E. Resolution No. 91-151 - Resolution calling for a public hearing for the adoption of an ordinance directing the Building Inspections to demolish the dwelling located at 83 Michigan Avenue for September 17, 1991

Resolution Book No. 18 - Page 498

Upon motion of Vice-Mayor Moore, seconded by Councilman Frank, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

A. Resolution No. 91-152 - Resolution authorizing the settlement and/or initiation of litigation regarding overpayments of supplemental benefits to retired firefighters.

At the request of the Assistant City Attorney, Councilman Ellison moved for the adoption of Resolution No. 91-152. This motion was seconded by Councilman Bratton and carried unanimously.

Resolution Book No. 18 - Page 499

B. Resolution No. 91-153 - Resolution adopting a policy for mutual assistance with other law enforcement agencies.

At the request of the Police Department, Councilman Frank moved for the adoption of Resolution No. 91-153. This motion was seconded by Councilman Ellison and carried unanimously.

Resolution Book No. 18 - Page 500

C. Authorization for City Manager to execute rental agreement for the Big Burley Tobacco Warehouse for a Public Auction on September 21, 1991.

At the request of the Assistant City Attorney, Councilman Frank moved to authorize the City Manager to execute, on behalf of the City of Asheville, a rental agreement for the Big Burley Tobacco Warehouse, 157 Craven Street on Saturday, September 21, 1991 for a public auction to sell personal propert. This motion was seconded by Vice-Mayor Moore and carried unanimously.

D. Report of Group Development Actions by Planning and Zoning Commission

Patty Tallerday, Acting Planning Director, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. She said in accordance with the new procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. She said the following action was taken by the Planning and Zoning Commission at their meeting on August 7, 1991.

(1) 58 Broadway Lofts - Renovation Project

The Asheville Planning and Zoning Commission on August 7, 1991, reviewed and approved the site plan of 58 Broadway Lofts Renovation Project.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

(2) 33 Broadview Duplexes

The Asheville Planning and Zoning Commission on August 7, 1991, reviewed and approved the site plan of 33 Broadview Duplexes with the following conditions:

1. Conveyance of a recorded document showing the sewer line extension to the site; and
2. The developer comply with State requirements regarding the landfill.

She said there was a great deal of opposition to the project expressed at both Planning and Zoning Commission meetings.

Councilman Ellison moved to schedule a public hearing relative to the site plan for 33 Broadview Duplexes for September 10, 1991, at the Civic Center Banquet Room. This motion was seconded by Councilman Frank and carried unanimously.

E. CLAIMS - Freddie Mitchell (Streets) - Mike Lewis (Water)

The Assistant City Manager said claims were received from Freddie Mitchell and Mike Lewis.

Mayor Michalove said the claims have been referred to the appropriate insureres for investigation.

F. LAWSUITS - George Kushner and wife, Madeline Kushner and Lord George Inc. (Appeal from Board of Adjustment decision (Santa Claus sign)

The Assistant City Manager said the City was served with a lawsuit on August 14, 1991 involving George Kushner and wife, Madeline Kushner and Lord George, Inc. relative to appeal from Board of Adjustment decision (Santa Claus sign).

VII. ADJOURNMENT:

Mayor Michalove adjourned the meeting at 7:55 p.m.

J. M. Michalove
MAYOR

Norman S. Rolfe
CITY CLERK

Tuesday - August 27, 1991

Regular Meeting

NO MEETING

ASHEVILLE CITY COUNCIL

MID-YEAR RETREAT

12:30 P.M.

Tuesday - September 3, 1991

Regular Meeting

NO MEETING

ASHEVILLE CITY COUNCIL

LABOR DAY

Tuesday - September 10, 1991 - 4:00 P.M.

Asheville Civic Center Banquet Room

Regular Meeting

Present: Councilman Norma P. Price, Presiding; Councilmen Mary Lloyd Frank, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott

Absent: Mayor Kenneth M. Michalove and Vice-Mayor William G. Moore

ANNOUNCEMENT

Due to the absence of the Mayor and Vice-Mayor, Councilman Bratton nominated Councilman Price to be temporary Chairman. Councilman Price was unanimously elected temporary Chairman.

INVOCATION

The invocation was given by Councilman Frank.

APPROVAL OF MINUTES

Councilman Price announced the approval of the minutes of the August 20, 1991, meeting as submitted.

I. PROCLAMATIONS:

A. Proclamation - "Minority Enterprise Development Week" - September 15 - 20, 1991

Councilman Price read the proclamation and presented it to Ms. Dee Williams, Asheville Business Development Center.

B. Presentation of Certificate for B*E*S*T Quarterly Winner No. 2 for 1991.

The City Manager said Detective Deborah B. Faulkner has been chosen as the City's B*E*S*T employee for the second quarter of 1991.

He said on April 12, 1991, Detective Faulkner was attending a "Critical Incident Stress Advance Training" in Baltimore, Maryland. While eating dinner at a local restaurant where at least two medical doctors, three emergency room nurses and one paramedic were also dining, Detective Faulkner saw one of those nurses choking, unable to breathe in or out. Immediately, without hesitation, she ran to the nurse and performed the Heimlich Maneuver which dislodged whatever caused the choking. Her quick reaction must have saved the nurse's life.

He presented Detective Faulkner with a Certificate for B*E*S*T Quarterly Winner No. 2.

C. **Resolution No. 91-155 - Resolution in support of North Carolina Senior Games**

Councilman Price read the resolution presenting it to Ms. Deanna Stone from the Buncombe County Parks and Recreation Department.

Ms. Stone said the 1991 Asheville-Buncombe Senior Games were conducted over a six-day period from May 13-18 with 349 participants (ranging in ages from 55 years old and up) competing in various competitions. This special event was sponsored by many local organizations including the Asheville, Buncombe County, and Black Mountain Departments of Parks and Recreation. On September 25-29, 1991, fifty-nine seniors who won local competitions and that are eligible to compete in the State games will travel to Raleigh as representatives from our area.

Upon motion of Councilman Frank, seconded by Councilman Ellison, Resolution No. 91-155 was unanimously adopted.

Resolution Book No. 18 - Page No. 502

D. **Resolution No. 91-156 - Resolution commending the North Carolina Center for Creative Retirement.**

Councilman Price read the resolution stating that the Center was featured in a November 29, 1990 article in the New York Times and, most recently, as the cover story in the July

14, 1991 issue of Parade Magazine. The Parade Magazine article highlighted UNCA's and Asheville's progressive attitude toward integrating retirees into the life of the campus and community.

The article has also brought the Center over 4,000 letters of inquiry plus hundreds of phone calls, and many of these inquiries centered around how individuals could establish community service volunteer programs in their own communities while many others were for information on the retirement potential in the Asheville area.

Councilman Price then presented the resolution to Dr. Ron Manheimer who thanked the Council on behalf of the North Carolina Center for Creative Retirement.

Upon motion of Councilman Ellison, seconded by Councilman Frank, Resolution No. 91-156 was unanimously adopted.

Resolution Book No. 18 - Page No. 503

D. **Resolution No. 91-157 - Resolution in support of an Arson Task Force for Buncombe County.**

District Attorney Ron Moore spoke in support of this resolution announcing his intent to form a "Task Force" for study of arson investigation and control activities in Buncombe County. This resolution expresses City Council's support of Moore's efforts.

Councilman Price said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Frank, seconded by Councilman Bratton, Resolution No. 91-157 was unanimously adopted.

Resolution Book No. 18 - Page No. 504

II. PUBLIC HEARINGS:

A. **Public hearing relative to group development plan of 33 Broadview Duplexes.**

Councilman Price said since the Mayor and Vice-Mayor are not here today the Council will continue this public hearing until

September 17, 1991 at 4:00 p.m. at the Asheville Civic Center Banquet Room.

Councilman Ellison moved to continue the public hearing relative to the group development plan for 33 Broadview Duplexes until September 17, 1991, at 4:00 p.m. at the Asheville Civic Center Banquet Room without further advertisement. This motion was seconded by Councilman Frank and carried unanimously.

B. **Public hearing relative to application for Transit Operating Assistance Grant for the Asheville Transit Authority for Fiscal Year 1992.**

Resolution No. 91-158 - Resolution authorizing the filing of an application with the Department of Transportation, United States of America, for a grant under the Urban Mass Transportation Act of 1964, as amended.

Councilman Price opened the public hearing at 4:33 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Carl Ownbey, Planning Department, said each year the City of Asheville approves funding for the Asheville Transit Authority for transit operations. With the maximum amount of federal funds available for FY 1992, the City must again fund more than the 50% net cost it has done in the past. He said UMTA will provide $638,765 and the City of Asheville $931,635.

Upon inquiry of Councilman Ellison, Mr. Ownbey stated that there were no emergency funds or supplemental funds available.

In response to Councilman Estes' question about who determines the size of buses, Mr. Ownbey responded that the local government makes those type of determinations.

Councilman Price stated that the federal government does mandate some programs that have to be offered.

Councilman Frank hoped that a pending bill will allocate more money to the City. Mr. Ownbey stated that, at a joint work session with the Council and the Transit Authority, to be held in October, he would be presenting a comparison of legislation under consideration in the U.S. House and the U.S. Senate.

Mr. Ralph Bishop spoke concerning the total cost to operate the transit system and why the City won't let the private sector operate it.

Mr. Homer Kennedy asked if Council would consider putting Tacoma Circle back on the bus route.

Councilman Price closed the public hearing at 4:50 p.m.

Councilman Price said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Ellison, seconded by Councilman Estes, Resolution No. 91-158 was unanimously adopted.

Resolution Book No. 18 - Page No. 505

C. **Public hearing relative to ordinance amending Chapter 30 of the Code of Ordinances of the City of Asheville to provide for zoning vested rights.**

Ordinance No. 1943 - Ordinance amending Chapter 30 of the Code of Ordinances of the City of Asheville to provide for zoning vested rights.

Councilman Price opened the public hearing at 4:51 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Gerald Green, Senior Planner, said during their 1990 Regular Session, the North Carolina General Assembly ratified Senate Bill 766 as Chapter 996 of the 1989 Session Laws. This bill provides for the

establishment of a statutory "vested right" upon approval of a "site specific development plan." Local governments are mandated to define what constitutes a "site specific development plan" and to identify the types of land use approvals for which development rights would be vested.

The proposed ordinance amendment establishes a vested right for a period of two (2) years following the approval of site specific development plans for the following developments:

Conditional Uses
Group Development
Small Projects
Subdivisions

Plans for these developments must be approved by City Council, or the Board of Adjustment for conditional uses. Development rights are vested following application by the landowner and a public hearing. Once development rights have been vested for a project, they can be revoked only if certain conditions are met.

Mr. Green said that the General Assembly has set a deadline of October 1, 1991, and therefore requested that Council consider this ordinance on its second and third readings on September 17, 1991.

City Attorney William F. Slawter answered questions and concerns raised by Councilman Ellison relative to an extension of the two-year period.

Upon inquiry of Councilman Ellison, City Attorney Slawter stated that the City's proposed ordinance was based on a model furnished to us by the North Carolina League of Municipalities.

Councilman Price closed the public hearing at 5:05 p.m.

Councilman Price said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Frank moved for the adoption of Ordinance No. 1943. This motion was seconded by Councilman Ellison.

On a roll call vote of 5-0, Ordinance No. 1943 passed on first reading.

D. **Continuation of a public hearing relative to a proposed wording amendment to the Zoning Ordinance - Neighborhood Parks.**

Ordinance No. 1944 - Ordinance amending Chapter 30 of the Code of Ordinances of the City of Asheville to define Neighborhood Parks and Neighborhood Playgrounds and to include Neighborhood Parks as permitted uses in R-1 and R-2 Residential Districts

Councilman Price said the public hearing was continued from the August 20, 1991 meeting.

Gerald Green, Senior Planner, said neighborhood parks currently are not defined in the City of Asheville's Zoning Ordinance, although they are listed as permitted uses in the R-3 and R-5 Residential Districts. The proposed amendment provides a definition of neighborhood parks and identifies them as permitted uses in the R-1 and R-2 Residential Districts. Parks meeting the definition of neighborhood parks, such as the Griffin Boulevard Rose Garden, are currently located in the R-1 and R-2 Districts. The status of these parks as non-conforming uses prevents their expansion and/or improvement. New parks cannot be developed in the R-1 and R-2 districts, limiting the ability of the Parks and Recreation Department to meet the needs of the citizens of Asheville.

He said this amendment was requested by the Parks and Recreation Department, and the proposed amendment has been reviewed and approved by that department.

Councilman Price closed the public hearing at 5:12 p.m.

Councilman Price said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Estes moved for the adoption of Ordinance No. 1944. This motion was seconded by Councilman Bratton.

On a roll call vote of 5-0, Ordinance No. 1944 passed on first reading.

III. OLD BUSINESS:

A. **Second reading of an ordinance relative to the adoption of an Ordinance amending Article 9 of Chapter 30 of the Code of Ordinances of the City of Asheville (Standards for Designating Historic Signs).**

Councilman Ellison moved to remand this ordinance back to the Planning Department for further clarifications and study. This motion was seconded by Councilman Frank and carried unanimously.

IV. NEW BUSINESS:

A. **Bond order authorizing the issuance of $26,000,000 of General Obligation Water Bonds of the City of Asheville, North Carolina.**

The City Manager said on August 6, 1991, the City Council passed two resolutions. The first directed the Finance Director to apply to the Local Government Commission for approval of the proposed water bonds; the second directed the City Clerk to publish a notice of intention to apply for LGC approval. Today's action introduces the Bond Order. It must be adopted September 17, 1991, following the public hearing.

Councilman Price declared the bond order introduced and said the order would be considered after the public hearing on September 17, 1991.

B. **Resolution No. 91-159 - Resolution of the City of Asheville, North Carolina regarding Bond Order authorizing the issuance of $26,000,000 of General Obligation Water Bonds of the City of Asheville, setting a public hearing thereon and directing publication of a notice of said public hearing.**

The City Manager said this resolution acknowledges introduction of the Bond Order authorizing the issuance of $26,000,000 of

General Obligation Water Bonds, sets the date of a public hearing, directs publication of the bond order with the notice of the public hearing and directs the filing of a statement of debt. He said the public hearing on water bonds would be September 17, 1991, at 4:00 p.m. in the Banquet Room of the Asheville Civic Center.

It was the consensus of the Council that they actively support this bond issue.

Councilman Price said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Bratton, seconded by Councilman Frank, Resolution No. 91-159 was unanimously adopted.

Resolution Book No. 18 - Page No. 507

C. Final plat approval - Sherwood Heights Subdivision

Don Sherrill, Urban Planner, said the Asheville Planning and Zoning Commission on February 1, 1989, reviewed and approved the preliminary plat of Sherwood Heights Extension, subject to the following contingencies:

1. City Council granting a variance from City subdivision street grade standards of 12% to 18%;

2. NCDOT approval of connection to Elk Mountain Scenic Highway;

3. Compliance with Erosion Control Ordinance; and

4. Provision of sufficient water pressure to support fire protection.

City Council granted a variance to the Subdivision Ordinance Street Grade Standards from 12% to 18% in March of 1989. The developer submitted a revised preliminary plat in November of 1989 with the following changes:

1. A reduction in the number of lots from 16 to 14; and

2. A reduction in the length of 18% grade from 1000' to 700'.

Staff approval of those changes was given at that time.

The developer has submitted copies of the final plat for review and approval. The one year time limit between preliminary plat approval and final plat approval had expired. The developer was required to go back to the Planning and Zoning Commission for re-approval of the preliminary plat.

At their August 7, 1991, meeting the Asheville Planning and Zoning Commission re-approved the preliminary plat for Sherwood Heights Subdivision (addition) subject to the following contingencies:

1. City Council granting a variance from City subdivision street grade standards of 12% to 18%;

2. NCDOT approval of connection to Elk Mountain Scenic Highway;

3. Compliance with Erosion Control Ordinance; and

4. Provision of sufficient water pressure to support fire protection.

The Commission also included a recommendation in support of the variance request to the street grade standards.

Sherwood Heights Subdivision addition is located off Elk Mountain Scenic Highway. The site is approximately 13 acres in size and includes 14 lots. The subdivision is located mostly within the City limits. A small portion of the subdivision is located outside the City limits but within the extra-territorial zoning jurisdiction. The property lies within the R-1 single family residential zoning district. Lot sizes range from .6 acre to over one acre.

The developer has completed the construction of the roadway to City standards for acceptance by the City of Asheville. The water lines have been installed to City specifications and approved by the City Engineering Department. The sewer lines have also been installed and will connect to the MSD system. Mike Jones, Assistant Fire Chief with the Asheville Fire Department, has performed a flow test on the hydrants installed, and found that the water flow and pressure were adequate for serving single family residences within the subdivision.

He said Ernie Hewitt of the City Erosion Control staff has confirmed that the development was in compliance with the City's Erosion Control Ordinance.

He said the developer has been requested to provide a copy of the NCDOT driveway permit approving the connection to Elk Mountain Scenic Highway.

He said the City Legal staff has advised the Planning Department to request that City Council reaffirm the variance request to the street grade standards when City Council considers the final plat approval.

Councilman Ellison moved to approve the Sherwood Heights Subdivision as recommended by the Planning and Zoning Commission. This motion was seconded by Councilman Estes and carried unanimously.

V. CONSENT:

A. **Resolution No. 91-154 - Resolution providing for the maintenance of Zoning Maps.**

Summary: The Buncombe County Tax Mapping Office has recently changed its systems of identifying tax parcels. The Tax Office formerly used a system identifying parcels by ward, sheet, and lot number. Parcels are now identified by what is referred to as a "PIN number." The maps of the Tax Department are also kept in file in the Planning and Zoning Department as our official zoning maps. This resolution will document the change from the old maps to the new maps, and will direct the maintenance of a set of the old maps for future reference.

Resolution Book No. 18 - Page No. 501

B. **Resolution No. 91-160 - Resolution authorizing the Mayor of the City of Asheville to execute easement in favor of the Carolina Power and Light Company for property on Walnut Street.**

Summary: Carolina Power and Light Company has requested that the City of Asheville execute a right-of-way easement on property belonging to the City of Asheville on Walnut Street, as shown on Carolina Power and Light Company Drawing RWA-8603, dated August 20, 1991.

Resolution Book No. 18 - Page No. 508

C. **Resolution No. 91-161 - Preliminary resolution calling for a public hearing to levy special assessments for the Azalea Avenue Project beginning at the end of the existing pavement on Azalea Avenue and ending at the end of the roadway.**

Summary: This resolution will authorize the scheduling of a public hearing in order to levy special assessments for Azalea Avenue.

VI. OTHER BUSINESS:

A. Report of Group Development Actions by Planning and Zoning Commission

Don Sherrill, Urban Planner, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. He said in accordance with the new procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. He said the following action was taken by the Planning and Zoning Commission at their meeting September 4, 1991.

(1) Milkco

Don Sherrill, Urban Planner, said the group development request for Milkco Incorporated involves a 7,000 sq. ft. addition to the existing industrial facility and the location of a 6,000 sq. ft. warehouse on the site. Milkco is located at the intersection of Deaverview Road and North Bear Creek Road. The site is 9.6 acres in area and lies within the City's Light Industrial zoning district. The existing parking meets the required parking requirements. The project includes the addition of 8,000 sq. ft. of parking to the existing parking area. Water and sewer services are available to the site. Fire protection is adequate for the additions. A City Driveway Cut Permit will be required to relocate an existing driveway entrance. The developer has made application for the permit. The improvements will include street trees along N. Bear Creek Road and parking lot trees within the new portion of the parking area.

At their September 4, 1991, meeting, the Asheville Planning and Zoning Commission voted to recommend approval of the group development request for Milkco Incorporated subject to two contingencies:

1. The developer meet the City's landscaping requirements for renovation of the employee parking area; and

2. Approval of the driveway entrance relocation by the City Public Works Department.

Council took no action regarding the report of the Planning and Zoning Commission, thereby approving the project.

B. Ordinance No. 1945 - Budget Ordinance amendment appropriating funds for the repair of Asheville Civic Center Air Conditioner Chillers.

City Manager Doug Bean said this budget amendment in the amount of $25,000 is to appropriate funds for the repair of Asheville Civic Center Air Conditioner Chillers. He said that money is available in our contingency fund for building repairs.

Councilman Price said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Ellison moved for the adoption of Ordinance No. 1945. This motion was seconded by Councilman Frank.

On a roll call vote of 5-0, Ordinance No. 1945 passed on first and final reading.

Ordinance Book No. 12 - Page No. 489

C. Request by Councilman Ellison

Councilman Ellison asked the City Manager for information relative to having a swimming pool installed at the Montford Neighborhood Park.

D. Comments by Ralph Bishop

Mr. Ralph Bishop expressed concerns about the new parking meters for the downtown area.

E. Ordinance No. 1946 - An ordinance amending Chapter 5 (Animals and Fowls) of the Code of Ordinances of the City of Asheville.

City Attorney William Slawter stated that the proposed ordinance makes the following revisions to our current animal control ordinance:

1. The following new definitions are added:

   A. Dangerous Animal
   B. Owner
   C. Owner's Real Property
   D. Potentially Dangerous Animal
   E. Restraint of a Dangerous or Potentially Dangerous Animal
   F. Severe Injury

2. The Animal Control Officer's duties and powers are expanded so as to authorize him to declare an animal to be a potentially dangerous animal upon a determination that the animal so qualifies as that term is defined.

3. An appeals board is established so that the owner of an animal may appeal a determination by the Animal Control Officer that an animal is a potentially dangerous animal. The ordinance provides that the County's Animal Control Advisory Board will serve as our appeals board. As the ordinance is written, a separate resolution appointing members would not be required.

Councilman Price said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Frank moved for the adoption of Ordinance No. 1946. This motion was seconded by Councilman Ellison.

On a roll call vote of 5-0, Ordinance No. 1946 passed on first reading.

Councilman Ellison moved to suspend the rules and proceed to the second reading of Ordinance No. 1946. This motion was seconded by Councilman Frank and carried unanimously.

On a roll call vote of 5-0, Ordinance No. 1946 passed on second reading.

Councilman Frank moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1946. This motion was seconded by Councilman Estes and carried unanimously.

On a roll call vote of 5-0, Ordinance No. 1946 passed on third and final reading.

Ordinance Book No. 12 - Page No. 491

F. CLAIMS - Miriam Mansfield (Public Works) - Lora Laird (Parking) - Karen Severson (Water) - Dawn Hoffman (Water) - Paul Hensley (Parking) - Bill Crawford (Water) - Janie Marlowe (Water) - George Hogan (Water) - George Lyda (Water) - Neil Smith (Water) - John McClung (Water) - Doris L. Spencer (Parks) - Ray Axelson (Sanitation) - James Stines

(Sanitation) - Marvin Koch (Water) - Marsha Browning (Water)

The City Manager said claims were received from Miriam Mansfield, Lora Laird, Karen Severson, Dawn Hoffman, Paul Hensley, Bill Crawford, Janie Marlowe, George Hogan, George Lyda, Neil Smith, John McClung, Doris L. Spencer, Ray Axelson, James Stines, Marvin Koch and Marsha Browning.

He said these claims have been referred to the appropriate insurers for investigation.

G. LAWSUITS - Spiros Apostolopoulos - Alleged personal injury and property damage from an automobile accident.

The City Manager said the City was served with a lawsuit on August 26, 1991 involving Spiros Apostolopoulos relative to alleged personal injury and property damage from an automobile accident.

VII. ADJOURNMENT.

Councilman Price adjourned the meeting at 5:55 p.m.

W. M. Michaelson
MAYOR

William F. Wolcott
CITY CLERK

Tuesday - September 17, 1991 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott

Absent:

INVOCATION

The invocation was given by Councilman Bratton.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the minutes of the September 10, 1991 meeting as submitted.

I. PROCLAMATIONS:

A. Proclamation - September 17-25, 1991 - Asheville-Vladikavkaz Sister City Week"

A ceremony was held between official representatives of Vladikavkaz, North Ossetia, Russia and the City of Asheville for a Sister City relationship.

Mayor Michalove welcomed Larisa Batrbekovna Habitsova, Chairman of the Town of Vladikavkaz, Soviet of Peoples Deputies and Mikhail Mikhailovich Shatalov, Chairman of the Executive Committee of the Town of Vladikavkaz, Soviet of Peoples Deputies. He presented gift to them - a flag and a stone plaque.

The officials from Vladikavkaz presented the Mayor and members of Council with gifts - a flag and a ram's horn.

Mayor Michalove read the proclamation and presented it to the Vladikavkaz officials.

B. Proclamation - September 23 - 27, 1991 - "Stay in School/Stay Off Drugs Awareness Week"

Mayor Michalove proclaimed September 23 - 27, 1991 as "Stay in School/Staff Off Drugs Awareness Week". He said the proclamation was requested by George P. Eckles, Lieutenant Colonel, U. S. Army Commander.

C. Proclamation supporting Youth Waste Management Contest

Mayor Michalove read the proclamation and presented the proclamation to Doug Pearson, Superintendent of the Asheville City Schools.

Mr. Pearson said in the Spring of 1991, the City, the County, and Quality Forward joined forces to educate the public about the concepts of integrated waste management. This education has taken the form of a slogan contest that is being run this fall primarily throughout the City and County schools. Lesson plans on sound waste management practices have been distributed to all city and county school teachers. The teachers have been encouraged to develop curriculum around this subject and to help their students to enter the contest. The contest ends on October 18 and the winners will be announced and prizes will be awarded to the winner and to his/her school.

D. Resolution No. 91-162 - Resolution of appreciation for recent retiree, David Warren.

Mayor Michalove recognized David Warren, recent retiree.

Mayor Michalove read the resolution stating that Mr. Warren has been with the City of Asheville for 19 years as a Firefighter in the Asheville Fire Department. Mr. Warren retired August 1, 1991.

Upon motion of Councilman Bratton, seconded by Vice-Mayor Moore, Resolution No. 91-162 was unanimously adopted.

Mayor Michalove presented the resolution to Mr. Warren.

Resolution Book No. 19 - Page 1

E. Resolution No. 91-163 - Resolution of appreciation for recent retiree, George Reepe.

Mayor Michalove read the resolution stating that Sergeant Reepe has been with the City for 30 years. He worked in the Asheville Police Department as a Police Sergeant and retired August 1, 1991.

Upon motion of Councilman Frank, seconded by Vice-Mayor Moore, Resolution No. 91-163 was unanimously adopted.

Police Chief Beavers accepted the resolution for George Reepe.

Resolution Book No. 19 - Page 2

F. Resolution No. 91-164 - Resolution of appreciation for recent retiree, Warren Worley.

Mayor Michalove read the resolution stating that Officer Worley has been with the City for 23 years. He worked in the Asheville Police Department as a Police Officer Sr. and retired August 1, 1991.

Upon motion of Councilman Ellison, seconded by Councilman Price, Resolution No. 91-164 was unanimously adopted.

Police Chief Beavers accepted the resolution for Warren Worley.

Resolution Book No. 19 - Page 3

G. Resolution No. 91-165 - Resolution of appreciation for recent retiree, Clyde Beavers.

Mayor Michalove read the resolution stating that Major Beavers has been with the City for 31 years. He worked in the Asheville Police Department as a Police Major and retired August 1, 1991.

Upon motion of Councilman Bratton, seconded by Vice-Mayor Moore, Resolution No. 91-165 was unanimously adopted.

Police Chief Beavers accepted the resolution for Clyde Beavers.

Resolution Book No. 19 - Page 4

H. Presentation of Civilian Heroism Awards - Fire Department

Resolution No. 91-166 - Resolution recognizing the Heroic actions of Ralph Mabry at the LaMancha Apartments Fire on September 28, 1990

Chief John Rukavina said on the evening of September 28, 1990, a fire occurred at Lamancha Apartments, trapping 7 month old, Timothy Parks, in the burning apartment. Mr. Mabry, a resident of LaMancha Apartment, observed the fire-engulfed unit and dashed through the flames to rescue the baby, carrying him outside and administering CPR with his wife, to keep the infant alive. When entering the burning room he was exposed to great danger and personal risk.

Mayor Michalove and Chief Rukavina recognized Ralph Mabry for his heroic actions for his courage and quick thinking in going beyond the call of duty to save a life.

Upon motion of Councilman Price, seconded by Vice-Mayor Moore Resolution No. 91-166 was unanimously adopted.

Resolution Book No. 19 - Page 5

Resolution No. 91-167 - Resolution recognizing the Heroic actions of David Bethea at a Fire at 126 Broad Street on March 18, 1990.

Chief John Rukavina said on Sunday, March 18, 1990, at 1:30 p.m. a fire occurred at 126 Broad Street, where Harold Young slept in an upstairs bedroom. David Bethea, a neighbor of Young, observed flames blocking the back door and heavy smoke in the upstairs area; kicked the front door down, removed the occupant from the house to safety and exposed himself to heavy smoke and dangerous conditions.

Mayor Michalove and Chief Rukavina recognized David Bethea for his heroic actions in helping others.

Upon motion of Councilman Price, seconded by Vice-Mayor Moore Resolution No. 91-167 was unanimously adopted.

Resolution Book No. 19 - Page 6

Resolution No. 91-168 - Resolution recognizing the Heroic actions of Edward Singleton at a fire at 126 Broad Street on March 18, 1990

Chief John Rukavina said on Sunday, March 18, 1990, at 1:30 p.m. a fire occurred at 126 Broad Street, where Harold Young slept in an upstairs bedroom. Edward Singleton, a neighbor of Young, observed flames blocking the back door and heavy smoke in the upstairs area; kicked the front door down, removed the occupant from the house to safety and exposed himself to heavy smoke and dangerous conditions.

Mayor Michalove and Chief Rukavina recognized Edward Singleton for his heroic actions in helping others.

Upon motion of Councilman Price, seconded by Vice-Mayor Moore Resolution No. 91-168 was unanimously adopted.

Resolution Book No. 19 - Page 7

Resolution No. 91-169- Resolution recognizing the Heroic actions of Walter Guinn at a fire at 85 North Liberty Street on June 21, 1991.

Chief John Rukavina said on Friday, June 21, 1991, at 11:31 p.m., a kitchen fire occurred at 85 North Liberty Street, where Emmett Roundtree was unconscious. Walter Guinn, building manager entered the apartment with a tenant and found Emmett Roundtree on the kitchen floor, carried him to safety and extinguished the fire. He exposed himself to personal danger in this rescue situation.

Mayor Michalove and Chief Rukavina recognized Walter Guinn for his heroic actions in an emergency situation.

Upon motion of Councilman Price, seconded by Vice-Mayor Moore Resolution No. 91-169 was unanimously adopted.

Resolution Book No. 19 - Page 8

Resolution No. 91-170 - Resolution recognizing the Heroic actions of David Baber at a fire at 85 North Liberty Street on June 21, 1991.

Chief John Rukavina said on Friday, June 21, 1991, at 11:31 p.m., a kitchen fire occurred at 85 North Liberty Street, where Emmett Roundtree was unconscious. David Baber, a tenant entered the apartment with the building manager and found Emmett Roundtree on the kitchen floor, carried him to safety and extinguished the fire. He exposed himself to personal danger in this rescue situation.

Mayor Michalove and Chief Rukavina recognized David Baber for his heroic actions in an emergency situation.

Upon motion of Councilman Price, seconded by Vice-Mayor Moore Resolution No. 91-170 was unanimously adopted.

Resolution Book No. 19 - Page 9

II. PUBLIC HEARINGS:

A. **Public hearing relative to group development plan of 33 Broadview Duplexes.**

Mayor Michalove opened the public hearing at 4:33 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Upon inquiry of the Mayor, the City Attorney said City Council should not consider the merits of other properties developed by the developer in considering approval of this group development. He said Council simply has to determine if this project meets all standards.

Don Sherrill, Urban Planner, said the group development request for 33 Broadview involves the location of eleven residential duplexes on the proposed site. The project will be constructed in two phases. The first phase will include the placement of five duplexes on the site. Phase two will include the construction of the remaining six duplexes. One residential duplex is currently located on the site.

The entire site is 4.5 acres in size and lies within the R-3 Medium Density Residential Zoning District. The site is surrounded on all sides by R-3 zoning. The surrounding land uses includes single family residences on three sides. Vacant land and Interstate 40 abut the property to the east.

The project meets all of the zoning requirements for parking, landscaping, and building setbacks.

The Planning Department has received letters confirming water availability and sewer allocation. The Asheville Fire Department has indicated that adequate fire protection for the entire site will be available if the developer extends the existing 6" waterline onto the property and provides a fire hydrant on site. The proposed plans include the waterline extension and the fire hydrant.

This project came before the Asheville Planning and Zoning Commission in June. The item was tabled until the July meeting due to some outstanding information that the developer needed to provide. The missing information included:

1) Letters of water availability and sewer allocation;

2) A utility easement from the adjacent property owner for the sewer line extension; and

3) Provisions for the placement of a fire hydrant, as recommended by the Fire Department, during Phase II of the project.

The developer has provided letters of water availability and sewer allocation. The plans have been revised to include the fire hydrant placement during Phase II of the project. The plans for sewer have also been revised. The sewer will extend from Onteora Blvd. onto the property owned by the developer rather than crossing the adjacent property owner's land. MSD is scheduled to make some improvements to the sewer line on Onteora Blvd. due to some problems with the line. These improvements will need to be completed prior to the developer connecting to the Onteora line.

Don Sherrill stated that there has been a great deal of public opposition to this project. Concerns include: the placement of multifamily housing in an area that is predominantly single family, increased traffic congestion, poor upkeep of the property in the

past, on site dumping of materials over the years, and lowering of property values.

The developer has cleaned up most of the surface debris that has been dumped on the site. Mr. Sherrill stated that he had spoken with Jim Patterson, a landfill specialist with the North Carolina Department of Health Environment and Natural Resources. He is familiar with the site. He said the developer is nearly complete with the surface cleanup. Mr. Patterson also stated that it was the responsibility of the landowners to locate the boundaries of the subsurface fill site and have a surveyor survey the fill area and include the area on a plat of the property to be recorded at the Register of Deeds.

At their August 7, 1991 meeting, the Asheville Planning and Zoning Commission voted to recommend approval of the group development request with two contingencies:

1) Conveyance of an easement for sewer line extension; and

2) The developer comply with state requirements regarding the landfill.

Mr. Sherrill said the developer has indicated that he will comply with the two contingencies.

Several members of Council asked questions relative to environmental concerns about the property, i.e., the landfill area.

Gary Rowe, Attorney representing the developer, Richard McBrayer, spoke in support of the project. He presented members of Council with a prepared notebook showing the proposed project as well as other projects completed by Mr. McBrayer. He said his client wants to be consistent with the neighborhood and has responded to all requests of the Planning and Zoning Commission. (A copy of the prepared notebook is on file in the Office of the City Clerk). He said the rental units would be rented to low/medium income families at a range of $300 to $325 per month. He said his client is willing to meet all the requirements of the City and the state as far as the previous dumping area. He said there are many requirements in place that the developer has to comply with in terms of the development.

Councilman Price said she was concerned about constructing over a previous landfill and the property owners/occupants should know about

the previous landfill. She said she had also received calls about the sewer backing up in this area just last week.

A lengthy discussion was held relative to the dumping area and the sewer problems.

Dr. Williams of 186 Onteora Blvd. spoke in opposition to the project. He presented prepared notebooks, including pictures of the property in question, the dwellings proposed to be moved, the dumping site, letters in opposition and a petition opposing the project. He said they support quality development but this project would be detrimental to the City of Asheville and the neighborhood. He said the petition in opposition to the project contains approximately 600 signatures.

Nancy Williams of 186 Onteora Blvd. spoke in opposition to the project stating that the residents do not oppose the low income project, but this particular project and the manner in which it is going to be constructed. She said she was also concerned about the asbestos to be removed from the housing to be moved.

The following individuals also indicated their opposition to the proposed project at 33 Broadview:

Homer Kennedy - Westover Drive
Resident of 22 Broadview Avenue
Faye Fox
Julie Willingham, 49 Broadview
Johnny Carr, 154 Liberty Street
Gwen Edwards
Dave Willingham, 49 Broadview
Kathyrn Price
Rita Crane, Broadview Avenue

After discussion, Councilman Price moved to go into an executive session to discuss the legal aspects of the project. This motion was seconded by Vice-Mayor Moore and carried unanimously.

After about 10 minutes, Vice-Mayor Moore moved to reconvene into regular session. This motion was seconded by Councilman Bratton and carried unanimously.

Mayor Michalove closed the public hearing at 6:58 p.m.

Councilman Price moved to deny the site plan of 33 Broadview Duplexes based upon health and safety considerations arising from the continued illegal dumping upon the site and sewer problems in the area and the responsibility of the Council to assure the safety of all citizens of the City and potential tenants of the development. This motion was seconded by Councilman Bratton and carried unanimously.

B. **Public hearing relative to demolition of 83 Michigan Avenue.**

Ordinance No. 1947 - Ordinance directing the Building Inspections to demolish the dwelling located at 83 Michigan Avenue.

Mayor Michalove opened the public hearing at 7:01 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Bob Hixon, Director of Inspections, said proceedings have been instituted in accordance with the provision of the City of Asheville Housing Code, Section 8-29 (B) (2), as authorized by N. C. General Statutes 160A-433 (1). A hearing was held on May 31, 1991, and the dwelling at 83 Michigan Avenue was found unfit for human habitation, and a Findings of Fact and Order was issued finding the dwelling, in its present condition, an imminent threat to life and property. The owners of the property are Billy Cagle and wife, Magdelena W. Cagle, and the property is recorded in the Office of the Register of Deeds in Deed Book 1266 at Page 715, and is shown on the Buncombe County/City of Asheville Tax Maps as Tax Lot 30.25, Ward 5, Sheet 6. The owners were given 60 days from the receipt of the Order to demolish the dwelling.

Mayor Michalove closed the public hearing at 7:09 p.m.

Vice-Mayor Moore moved for the adoption of Ordinance No. 1947. This motion was seconded by Councilman Frank.

On a roll call vote of 7-0, Ordinance No. 1947 passed on first reading.

Vice-Mayor Moore moved to suspend the rules and proceed to the second reading of Ordinance No. 1947. This motion was seconded by Councilman Frank and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1947 passed on second reading.

Councilman Frank moved to suspend the rules and proceed to the third reading of Ordinance No. 1947. This motion was seconded by Vice-Mayor Moore and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1947 passed on third and final reading.

Ordinance Book No. 13 - Page 1-3

C. **Public hearing relative to General Obligation Water Bonds.**

Mayor Michalove opened the public hearing at 7:10 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

The City Manager said on September 10, 1991, Council introduced a bond order authorizing the issuance of the bonds and set the date and time of a public hearing for anyone who wishes to be heard on the questions of the validity of the bond order and the advisability of issuing the bonds.

There being no comments, Mayor Michalove closed the public hearing at 7:11 p.m.

III. OLD BUSINESS:

A. **Ordinance No. 1943 - Second reading of an ordinance relative to ordinance amending Chapter 30 of the Code of Ordinances of the**

City of Asheville to provide for zoning vested rights.

Mayor Michalove said during their 1990 Regular Session, the North Carolina General Assembly ratified Senate Bill 766 as Chapter 996 of the 1989 Session Laws. This bill provides for the establishment of a statutory vested right upon approval of a site specific development plan. Local governments are mandated to define what constitutes a site specific development plan and to identify the types of land use approvals for which development rights would be vested.

The proposed ordinance amendment establishes a vested right for a period of two (2) years following the approval of site specific development plans for the following developments:

Conditional Uses
Group Development
Small Projects
Subdivisions

Plans for these developments must be approved by City Council, or the Board of Adjustment for conditional uses. Development rights are vested following application by the landowner and a public hearing. Once development rights have been vested for a project, they can be revoked only if certain conditions are met.

Mayor Michalove said the ordinance was previously read on first reading and will not be reread in its entirety.

On a roll call vote of 7-0, Ordinance No. 1943 passed on second reading.

Councilman Ellison moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1943. This motion was seconded by Vice-Mayor Moore and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1943 passed on third and final reading.

Ordinance Book No. 12 - page 480 - 486

B. **Second reading of an ordinance relative to proposed wording amendment to the Zoning Ordinance - Neighborhood Parks.**

Mayor Michalove noted that the second reading of this ordinance is being postponed for further staff review and study.

IV. NEW BUSINESS:

A. **Redevelopment Plan for South Pack Square Improvement Area - Phase II.**

Councilman Bratton requested that she be excused from both discussion and vote on the South Pack Square Improvement Area - Phase II - Redevelopment Plan based on a possible financial gain since she is involved in a private venture that could take place in the subject area.

Councilman Ellison moved to excuse Councilman Bratton from both discussion and vote on the South Pack Square Improvement Area - Phase II - Redevelopment Plan. This motion was seconded by Councilman Price and carried unanimously.

Verl Emrick, with the Planning Department, said a redevelopment plan for the area is needed to protect local property owners, businesses and residents from non-compatible development. Haphazard development could cause adverse market conditions and prevent land values from achieving full potential.

He said the South Pack Square (Eagle-Market Street) area has historically been the black business center for the City's black population. The South Pack Square block is unique in that the white business district and the black business district abut at the corner of Biltmore Avenue and Eagle Street. Biltmore Avenue (the old South Main Street) remains white throughout the years and Eagle Street remains populated by blacks. South Market Street has had both racial groups in business on the street. Blacks as early as 1885 were beginning to occupy Eagle Street and many businesses were developed along Eagle Street by 1896.

He said new development of the 1990's could replace the cultural heritage of the block

and the significant contribution of the City's black population to the downtown commercial district could be lost from future generations. The few remaining property owners have the opportunity to preserve the rich cultural heritage of the block if they are involved in the planning for the future development of the area.

He said the Pack Place Arts and Science Center will open in late 1991. The Center is located on South Pack Square surrounded by the multi-million dollar Pack Square project. The new City Public Works complex will open in 1992. The complex will be located along South Charlotte Street in close proximity to the South Pack Square (Eagle-Market Street) area. These large scale developments to the immediate north and east of the South Pack Square area will cause increased development pressure in the area. The area will attract development in support of the new large scale investments. The potential for speculative development will be greatly increased. Early investors and developers are already showing interest in the area.

He said a Redevelopment Plan adopted by City Council, the Asheville Planning and Zoning Commission, and the Housing Authority would have a crucial influence in the future development pattern for the area. The plan could specify the type and style of new development and preserve the cultural and architectural significance of the area. The plan should be developed by and for the existing property owners, businesses and residents of the area. Without the adoption of a Redevelopment Plan for the South Pack Square area future development patterns will be left to chance and private market conditions. The Plan will cause increased interest by potential investors and developments and cause the redevelopment of the area to take place in a shorter time period than normal market conditions would allow.

He said on September 6, 1991 the Planning and Zoning Commission read and adopted a resolution which specified the following: 1) Defined a specific portion of the South Pack Square Planning Area, to be known as the South Pack Square Improvement Area; 2)

Specified that this area meets the requirements of the statutes, GS 160A 503, and designated this area to be a non residential improvement area; and 3) requested, by motion, that the Asheville City Council direct the appropriate commission to prepare a Redevelopment Plan to address those problems specified in the report of Facts and Findings.

He said during the Commission's meeting several issues were articulated by several members of the public. These issues are basically:

1) Concern of who, that is what official body would be responsible for preparation of the redevelopment plan

The specific wish of the South Pack Square Improvement Association is that the committee, property owners and area business people have the responsibility of plan preparation

The statutes specify that the plan be prepared by the City's Redevelopment Commission - this official role is filled by the Asheville Housing Authority

However, the Authority has in the past worked in concert with specific neighborhood organizations in preparing redevelopment plans, a specific example is the Montford Redevelopment Plan - 1987.

He said there are at this point at least three alternatives open to Council in specifying who, what body is to be given the responsibility of plan preparation:
(a) Direct that the Housing Authority prepare the plan;
(b) Appoint a new or an additional Redevelopment Commission - if there is the latitude in the statutes to do so - the organization most frequently mentioned for this project is the South Pack Square Improvement Association;
(c) Assign the primary legal responsibility to the Housing Authority but specify that the preparation of the plan be accomplished by a consortium of several different groups, specifically

the improvement committee, property owners, business owners, planning staff and AHA staff.

He said this approach was successfully used in preparing the Montford Plan and could be used again.

2) The second concern is directed toward removing 7 specific properties presently included in Pack Plaza Redevelopment Project (July 1984) and making them part of this plan.

These properties front Biltmore Avenue from Eagle Street south to Sycamore Street.

The primary rational for this proposed change is that 1) in reality those properties have historically been more an integral part of the "South Pack Square Area" than the Pack Square area and 2) in terms of community involvement those properties and their various owners are integrated with the "South Pack Square Area."

The specific procedures for accomplishing the amendment to the Pack Plaza Plan should be addressed by the legal department.

3. Finally a great deal of concern is shared by everyone that has been involved in the planning process thus far in that this redevelopment effort not become a "slash, demolish and removal" type of project.

It seems that this concern can only be allayed by designing a planning preparation process which will be open and responsive to those most impacted by the implementation of any adopted plan. He said the report submitted to the Planning Commission states "The Plan will be developed by and for the existing property owners, businesses and residents of the area"., without this type of involvement the plan cannot succeed.

Councilman Ellison expressed great interest in the plan, particularly protecting any displaced individuals and broad participation in preparing the plan.

Wanda Henry Coleman, Executive Director of the YMI Cultural Center, spoke in support of the Redevelopment Plan. She said the YMI Cultural Center must be included in the preparation of the plan.

Mr. David Jones, Executive Director of the Asheville Housing Authority, spoke in support of the Redevelopment Plan. He strongly upheld the position of the Housing Authority as the Redevelopment Commission stating that the Authority has always done a good job for the City in carrying out Redevelopment Plans.

After discussion, Vice-Mayor Moore moved that the Asheville Housing Authority be the Redevelopment Agent for the South Pack Square Improvement Area Redevelopment Plan - Phase II and that the preparation of the plan be accomplished by a consortium of several different groups, specifically the improvement committee, property owners, business owners, planning staff and AHA staff. This motion was seconded by Councilman Frank and carried unanimously.

Council requested that the staff review the effect of removing the seven (7) specific properties presently included in the Pack Plaza Redevelopment Project and making them a part of the proposed South Pack Square Improvement Area- Phase II and to give a preliminary report to members of Council on October 1, 1991 on their findings.

B. **Ordinance No. 1948 - Bond Order authorizing the issuance of $26,000,000 of General Obligation Water Bonds of the City of Asheville, North Carolina.**

Mayor Michalove said this action adopts the Bond Order introduced on September 10, 1991 authorizing issuance of $26,000,000 of General Obligation Water Bonds.

Vice-Mayor Moore moved for the adoption of Ordinance No. 1948. This motion was seconded by Councilman Frank.

On a roll call vote of 7-0, Ordinance No. 1948 was adopted.

C. **Resolution No. 91-171 - Resolution setting a special election on the Bond Order Entitled "$26,000,000 Water Bonds" and directing the publication of Notice of a Special Bond Election and Notification of the Buncombe County Board of Elections.**

Mayor Michalove said North Carolina law requires a referendum election for issuance of general obligation bonds. The City Council has approved all preliminary steps toward issuing the $26,000,000 water bonds leading up to calling a voter referendum on issuance of bonds for water system improvements. This resolution sets the referendum for November 5, 1991. This resolution also directs publication of Notice of the Election and request Buncombe County Board of Election assistance.

Mayor Michalove said members of Council were previously furnished copies of the Resolution and it would not be read in its entirety.

Upon motion of Councilman Ellison, seconded by Councilman Frank, Resolution No. 91-171 was unanimously adopted.

Resolution Book No. 19 - Page 10 - 11

V. CONSENT:

A. **Resolution NO. 91-172Resolution relative to amending Zoning Protest Petition Form.**

Summary: Parcel (pin) identification numbers are to replace ward, sheet and lot numbers on the current protest petition form issued by the City Clerk's office.

Resolution Book No. 18 - Page 12

B. **Motion that the City Council confirm that Resolution No. 79-253, adopted by the Asheville City Council on November 29, 1979, relating to claims and judgments sought or entered against City officers or employees, shall apply in all respects to members of the Light Up Your Holidays Board of Directors and the Light Up Your Holidays First Night Asheville Committee.**

C. **Resolution No. 91-173 - Resolution authorizing the Mayor to execute on behalf of the City of Asheville a Federal Aviation Grant Agreement, Project No. 3-37-005-13 (Airport Master Plan Study).**

SUMMARY: The FAA has offered a grant agreement to the Asheville Regional Airport Authority with the maximum obligation of the United States in the amount of $181,620. The City of Asheville and the County of Buncombe are co-sponsors of the grant agreement and are therefore required to execute said grant agreement. The FAA has approved a project for the Airport or Planning Area (hereinafter referred to as "Project") consisting of the "Airport Master Plan Study." This resolution would authorize the Mayor to execute the FAA Grant Agreement, Project No. 3-37-03.005-13 in the amount of $181,620.

Resolution Book No. 19 - Page 13

E. **Resolution No. 91-174 - Resolution authorizing the Mayor to execute on behalf of the City of Asheville a Federal Aviation Grant Agreement, Project No. 3-37-005-14 (Runway 16/34 Centerline Lighting).**

SUMMARY: The FAA has offered a grant agreement to the Asheville Regional Airport Authority with the maximum obligation of the United States in the amount of $350,361. The City of Asheville and the County of Buncombe are co-sponsors of the grant agreement and are therefore required to execute said grant agreement. The FAA has approved a project for the Airport or Planning Area (hereinafter referred to as "Project") consisting of "Runway 16/34 Centerline Lighting." This resolution would authorize the Mayor to execute the FAA Grant Agreement, Project No. 3-37-0005-14 in the amount of $350,361.

Resolution Book No. 19 - Page 14

Upon motion of Vice-Mayor Moore, seconded by Councilman Frank, the consent agenda was unanimously adopted.

VI. OTHER BUSINESS:

A. CLAIMS - Rosemary Stevens (Water) - Virginia Storm (Water) - Jeremiah Mull (Water)

- Mildred Jackson (Water) - Billy Gevedon (Water) - Guy Roberts (Water)

The City Manager said claims were received from Rosemary Stevens, Virginia Storm, Jeremiah Mull, Mildred Jackson, Billy Gevedon, and Guy Roberts.

Mayor Michalove said the claims have been referred to the appropriate insurers for investigation.

B. LAWSUITS - Jason J. Wallace (Alleged personal injury from an automobile accident)

The City Manager said the City was served with a lawsuit on September 12, 1991 involving Jason J. Wallace relative to alleged personal injury from an automobile accident.

Mayor Michalove said this lawsuit has been referred to the appropriate legal counsel for action.

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 8:05 p.m.

W. M. Michalove
MAYOR

William D. Holcomb
CITY CLERK

Tuesday - September 24, 1991

Regular Meeting

NO MEETING

ASHEVILLE CITY COUNCIL

PRIMARY ELECTION

Tuesday - September 24, 1991

Regular Meeting

NO MEETING

ASHEVILLE CITY COUNCIL

PRIMARY ELECTION

Tuesday - October 1, 1991 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Deputy City Clerk Carol Hensley.

Absent: Councilman Price and Associate City Manager/City Clerk William F. Wolcott

INVOCATION

The invocation was given by Councilman Estes.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the minutes of the September 17, 1991 meeting as submitted.

I. PROCLAMATIONS:

II. PUBLIC HEARINGS:

A. **Public hearing relative to assessments for improvements on Azalea Avenue.**

Resolution No. 91-175 - Resolution directing that the Azalea Avenue Project beginning at the end of the existing pavement on Azalea Avenue and ending at the end of the roadway be undertaken and special assessments made against benefitted properties.

Mayor Michalove opened the public hearing at 4:07 p.m.

The Deputy City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Jim Ewing, Director of Public Works, said a petition has been received from property owners on Azalea Avenue for paving improvements. The City intends to undertake the improvements pursuant to the provisions of Chapter 160A, Article 10 of the North Carolina General

Statutes. The proposed basis for making assessments for the improvements is based on the frontage abutting on Azalea Avenue at an equal rate per foot of frontage. Fifty percent (50%) of the cost of the work will be assessed against benefitted property. This public hearing is required by N. C. General Statute and will allow public input relative to the process being used for improvements.

He said the total cost of the project is estimated to be $9,000. He said there are five (5) property owners along the portion of Azalea Avenue to be improved and they will be assessed 1/10 each year along with their tax bill for a period of ten (10) years.

Mayor Michalove closed the public hearing at 4:10 p.m.

Upon motion of Councilman Estes, seconded by Vice-Mayor Moore, Resolution No. 91-175 was unanimously adopted.

Resolution Book No. 19 - Page 15-16

III. OLD BUSINESS:

A. **Ordinance No. 1944 - Second reading of Ordinance amending Chapter 30 of the Code of Ordinances of the City of Asheville to define Neighborhood Parks and Neighborhood Playgrounds and to include Neighborhood Parks as permitted uses in R-1 and R-2 Residential Districts.**

Mayor Michalove said neighborhood parks currently are not defined in the City of Asheville's Zoning Ordinance, although they are listed as permitted uses in the R-3 and R-5 Residential Districts. The proposed amendment provides a definition of neighborhood parks and identifies them as permitted uses in the R-1 and R-2 Residential Districts. Parks meeting the definition of neighborhood parks, such as the Griffin Boulevard Rose Garden, are currently located in the R-1 and R-2 Districts. the status of these parks as non-conforming uses prevents their expansion and/or improvement. New parks cannot be developed in the R-1 and R-2 districts, limiting the ability of the Parks and Recreation Department to meet the needs of the citizens of Asheville.

This amendment was requested by the Parks and Recreation Department, and the proposed amendment has been reviewed and approved by that department.

Gerald Green, from the Planning Department, said the Planning and Zoning Commission unanimously recommended the proposed amendment for neighborhood parks. He said a proposed park would be a joint effort by the City and the residents in the area proposed for a park. He said a recommendation would be received from the Parks and Recreation Advisory Board before a park could be established.

Ray Kisiah, Director of Parks, Recreation and Public Facilities, said the Recreation Advisory Board and the staff unanimously support the proposed amendment. He said a neighborhood park in the R-1 and R-2 Districts could not be developed without this amendment.

After presentation and discussion of the next item on the agenda, "Proposed Park in the North Asheville Area", a vote was taken on the second reading of this ordinance.

On a roll call vote of 6-0, Ordinance No. 1944 passed on second reading.

Councilman Ellison moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1944. This motion was seconded by Councilman Estes and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1944 passed on third and final reading.

Ordinance Book No. 12 - Page 487 - 488

IV. NEW BUSINESS:

A. **Presentation relative to proposed park in the North Asheville Area.**

Bryon Forbes, presented a proposal for North Asheville Park, for a service project for the rank of Eagle Scout. A copy of the proposal is on file in the Office of the City Clerk.

He said he felt the Swain property located on Kimberly Avenue would be an ideal location for a play area.

Many letters of support, which are included in the proposal, were read to members of Council.

Gerald Green, from the Planning Department, said he had received two telephone calls in opposition to a park in this particular location - from Greg Walker and Susan Roderick.

Mayor Michalove noted that the Asheville City Board of Education owns the property adjacent to Ira B. Jones School on Kimberly Avenue which is the property in question. He indicated that the School Board could develop the park if they so desired.

Councilman Ellison said before voting to assist in the development of a park in North Asheville he would like to receive a report on the status of all parks in the City of Asheville. He said he would also like to know what role the City of Asheville would play in developing the park, funding needed for the park and what the interest of the School Board would be in developing a park.

Nancy Boland, member of the Recreation Board, said the Parks and Recreation Advisory Board has been pressing for a North Asheville Park for fifteen (15) years. She said funds have been set aside for the development of a North Asheville Park.

Vice-Mayor Moore suggested that the ordinance allowing for neighborhood parks in a R-1 or R-2 Residential District include language that artificial lighting can not be used in the parks.

Charlie Bullman, member of the Recreation Board and President of the East Asheville Youth Activities, strongly supported the development of a park in the North Asheville area. He said the park/playground is very much needed in North Asheville. He said he has never received a complaint about the lighting at the East Asheville field.

The City Manager said CIP funds have been set aside for parks in the City.

Amy Pruett, Recreation Center Director, suggested that no lighting be allowed after 10 p.m.

Ray Kisiah requested that the ordinance not include language relative to no lighting since this would restrict all parks in the City from

lighting. He said the Asheville City Board of Education does have an interest in a North Asheville Park. He said an architect has prepared plans for a soccer field and two ballfields for the area and the plan does not provide for lighting.

After discussion, Vice-Mayor Moore withdrew his request to amend the ordinance to provide for no lighting.

Leni Sitnick, 90 Gertrude Place, member of the Tree and Greenway Commission, said she wholeheartedly supports Little League. She said she was concerned about the property in question since it is the only virgin woods in the area. She suggested that before a vote is taken on the proposal that adjacent property owners be notified of Council's intent.

David Carey, 24 Hampstead Road, said he owns property adjacent to the property in question. He said before a park is developed in the area adjacent needs of the community need to be met - such as the current overcrowding on Kimberly Avenue.

Carolyn Tingle, Chairman of the Parks and Recreation Advisory Board, said the Board is in unanimous favor of the proposed project.

A resident of Country Club Road said the City should establish an estimated cost to convert the property as proposed and suggested that if the park is developed that no lights be installed. He said an evaluation should be made of the funding set aside for the park.

Sana Efrid, 18 Willow Road, teacher at Ira B. Jones School, spoke in support of the proposed park.

Mayor Michalove suggested that a committee be established to design, on paper, a recommended park for the area. He said the committee should consist of members of the Parks and Recreation Advisory Board, the Tree and Greenway Commission, representatives that presented the proposal at today's meeting, representatives of the neighborhood, the Asheville City School Board, and two Council members. He said a public hearing could then be held on the recommended plan. He said the plan should address concerns such as parking, traffic, and buffering as it relates to

the road system - Kimberly Avenue and Beaverdam Road. He said a recommendation should be received from the Parks and Recreation Advisory as to the priority of parks in the City. He said the plan should contain a comprehensive estimate of the cost of the developing the park as well as perhaps developing the park in phases.

Councilman Ellison said he would like a report from the Director of Parks, Recreation, and Public Facilities relative to all parks in the City.

It was noted that a public hearing was held about ten (10) years ago for a park in this area and the comments from that public hearing should be included in the report to Council.

Upon inquiry of Mayor Michalove, Gerald Green from the Planning Department, explained the process to be followed in developing a neighborhood park under the ordinance adopted. He said the Planning Director uses their discretion as to whether a park proposal receives Council approval under the group development process.

Mayor Michalove said he felt Council and/or citizens would have a problem with the Planning Director having this discretion and requested a complete report at next week's Council meeting on the process for developing a neighborhood park.

After discussion, Vice-Mayor Moore moved to accept the recommendations of Mayor Michalove for the committee approach to the proposed park. This motion was seconded by Councilman Bratton and carried unanimously.

Vice-Mayor Moore moved that the proposed plan to be developed not include lighting for the area. The motion died for the lack of a second.

Mayor Michalove noted that a decision relative to lighting of the proposed park would not be made at today's meeting.

B. Report relative to vaulted sidewalks.

Charles Penny, Assistant City Manager, said as part of the Street and Sidewalk Project, City staff and consulting engineers have prepared plans for a major rehabilitation of Patton Avenue from Meeker Motors to Biltmore Avenue. He said these plans are being extensively coordinated with all

utility companies as well as the business community in this area. He said a meeting is scheduled for October 17 at the Asheville Civic Center to present in detail the proposed plan to the area businesses and to receive their input into the plan.

Jim Ewing, Director of Public Works, said one major source of contention throughout the City is the question of vault maintenance responsibility. He said an unwritten Council policy regarding vaults is that the property owner will repair or remove the vault and the city will replace, reconstruct, or rehabilitate the sidewalks adjacent to the property. However, the property owner can not be forced to repair or remove the vault.

Mr. Ewing said in his opinion the City should undertake the entire project of closing the vaults, backfilling them and constructing, reconstructing or rehabilitating existing sidewalks in the City. He said this process would eliminate the problem of the vaults and the sidewalk having to be redone in the future and provide for a better long term job for replacing sidewalks due to the nature of stress on the sidewalk over the vault.

Mr. Ewing said the Patton Avenue project includes approximately 266 feet of vaults which need to be addressed. He said assuming $750/foot Patton Avenue would require approximately $200,000. He said there are other locations in the City which would also qualify, i.e., Kostas Men's Wear on Charlotte Street which is estimated at $40,000 for repair.

Upon inquiry of Council, Mr. Ewing said the Public Works Department does not have a full inventory of vaults in the City.

Councilman Ellison questioned whether there would be a problem if the vaults were just left alone.

The City Attorney said questions have arisen as to the owner of the vaults and who is responsible. He said in his opinion the property owner is the owner of the vaults, however, the City uses the land above the vaults, for those vaults with which he is familiar.

Robert Camille, recent owner of the old Patton Avenue Cigar Store, said he does not have the money to build or fill in the vault in front of his business. He said in his opinion the vault will be fine without doing anything to the sidewalk where the vault is located.

The City Manager said in some instances the sidewalk must be replaced due to safety hazards and some vaults are structurally unsafe and the question of liability arises. He recommended that the City undertake the responsibility of closing the vaults, backfilling them and constructing, reconstruction or rehabilitating the existing sidewalks - or - develop a process whereby the property owners is forced to pay one-half of the cost.

After discussion it was determined that the City staff would conduct a thorough study of the vault problem city wide, research what other cities are doing about the vault problem, determine a cost estimate city wide, and determine legal and liability options.

C. **Ordinance No. 1949 - Budget ordinance amendment to appropriate Fair Housing Assistance Program Grant Funds.**

The City Manager said this action will appropriate $5,600 of Fair Housing Assistance Program Grant funds from HUD for the fifth year funding of the project.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Councilman Ellison moved for the adoption of Ordinance No. 1949. This motion was seconded by Vice-Mayor Moore.

On a roll call vote of 6-0, Ordinance No. 1949 passed on first and final reading.

Ordinance Book No. 13 - Page 5

D. **Presentation - Comprehensive Housing Affordability Strategy.**

Cindy Weeks, Member of the Comprehensive Housing Affordability Strategy Task Force, presented members of Council the Comprehensive Housing Affordability Strategy (CHAS) plan.

Ms. Weeks highlighted the plan which is on file in the Office of the City Clerk.

She said the task force formed to consider CHAS elements views this process an opportunity to develop on ongoing, unified approach to solving local affordable housing problems. She said approval of the CHAS by HUD is required for the City to remain eligible for Community Development Block Grant and other HUD housing resource.

Ms. Weeks said the planning process will be institutionalized in two ways. First, the CHAS Task Force, to be renamed the Housing Affordability Task Force, will be formally appointed to meet as an ongoing advisory body to the City, with broad representation from the public and private sectors, and a membership which will include representation from the groups included in the current CHAS task force, along with the addition of other interested groups, including the Asheville Area Chamber of Commerce, the Residents Council of the Asheville Housing Authority, the Mortgage Lenders Association, the Asheville Property Investment Association, and the Coalition of Asheville Neighborhoods. Second, the City will allocate staff time to coordinate the research and strategy development, giving additional qualified staff person(s) prime responsibility for coordinating the City's planning for low and moderate income housing development.

She reviewed the twelve strategies to be implemented and requested that the City evaluate them to determine the feasibility of each one.

Upon inquiry of Mayor Michalove, Marvin Vierra, Director of Community Development, said the City must submit the CHAS Plan to HUD by October 30. He said most of the funds to implement the program have already been programmed, however, there are portions of the recommendations that have not been funded.

Mayor Michalove noted that about a year and a half ago the City Council made a commitment to low and moderate income housing development.

Mr. Vierra indicated that a resolution will be presented to Council on October 15, 1991 for approval of the CHAS plan.

Council requested that staff prepare a report for Council before the October 15 meeting indicating additional funds needed for implementation of the plan; an organizational chart showing the relationship of the CHAS Task Force to City Council as well as the Community Development/Housing Authority Committee; how the Task Force Committee members will be appointed; the responsibility and purpose of the Committee and a recommendation from the Community Development/Housing Authority Committee relative to the CHAS plan.

E. Report relative to Adopt-A-Street Program and approval of Adopt-A-Street signs.

The City Manager said this program will allow groups or agencies to adopt a street and be responsible for cleaning up trash and litter along the street. He said the adopted streets would have Adopt-A-Street Program signs placed with the name of the adopting agency or group. He showed members of Council an example of the signs and said the cost of each sign would be approximately $40.00. He said the signs will conform to the Sign Ordinance.

Councilman Ellison said, considering the problem the state is having with the constitutionality of allowing some groups to adopt roads/streets and not others, he requested that Council have an executive session to address developing a policy on selecting groups to adopt a street.

Mayor Michalove requested that one of the signs be placed on a street for Council to view.

F. Affirmative Action Report.

Pam McGrayne, Personnel Director, highlighted the 1990-91 Annual Affirmative Action Report which included an analysis of the Plan's program objectives and employment goals for FY 1990-1991 and establishes objectives and goals for FY 1991-92. A copy of the report is on file in the Office of the City Clerk.

G. Approval of request for massage therapist license - Craig J. Ellis

The City Attorney said Asheville Code Chapter 17A and Ordinance 1899 requires anyone seeking "the

privilege of carrying on the business, trade, or profession of masseur or masseuse" to obtain approval from Council for a license.

He said Mr. Craig J. Ellis has requested approval of a massage therapist license and has furnished all the required information.

Councilman Ellison moved to approve the request of Craig J. Ellis for a massage therapist license. This motion was seconded by Vice-Mayor Moore and carried unanimously.

V. CONSENT:

VI. OTHER BUSINESS:

A. **Dave Cheadle - Art Sign Company - Fee for Sign Permits**

Dave Cheadle said he felt the fee for sign permits should be revised. He said the fee should be based on the cost of the sign rather than the size of the sign. He said for a sign 120 square feet, the permit fee is $180.00 whether the sign cost is $450.00 or $4,500.00.

B. **Councilman Frank - Report Housing/Community Development Committee**

Councilman Frank said the Housing/Community Development Committee met and discussed whether to leave the seven (7) properties in the Pack Plaza Redevelopment Project or to include them in the South Pack Square Redevelopment Plan. She said the committee will be recommending that the properties remain in the Pack Plaza Redevelopment Project.

Mayor Michalove said Council needs a recommendation from the Housing/Community Development Committee relative to the CHAS plan.

Councilman Ellison noted that the spend rate of CDBG funds is now ahead. He said the problem the City had last year with spend rate has been resolved.

C. **Goals for Parking**

The City Manager noted that the goals for parking will be on the October 15, 1991 agenda.

D. **Claims - Maggie L. Smith (Water) - Alvin Duncan (Sanitation) - Barbara MacBryde (Water) - Paul W. Martini (Parks)**

The City Manager said claims were received from Maggie L. Smith, Alvin Duncan, Barbara MacBryde, and Paul W. Martini.

Mayor Michalove said these claims have been referred to the appropriate insurers for investigation.

E. **Status Report - UDO**

Councilman Ellison requested a status report on the Unified Development Ordinance.

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 7:35 p.m.

MAYOR

CITY CLERK

Tuesday - October 8, 1991 - 2:30 P.M.

City Council Worksession

Present: Mayor Kenneth M. Michalove, Presiding; Vice Mayor William G. Moore, Councilmen Mary Lloyd Frank, Eugene W. Ellison, and William W. Estes; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman Bratton and Councilman Price

(1) - Outside Agencies

Council authorized the City Manager to sign contracts with outside agencies. The motion was made by Gene Ellison and seconded by Bill Estes and approved unanimously.

(2) Lowe's Companies, Inc. - Group Development

Councilman Frank moved to schedule a public hearing on the Lowe's Group Development Project for October 29, 1991. This motion was seconded by Vice Mayor Moore and carried unanimously.

Mayor Michalove adjourned the meeting at 4:30 p.m.

K. M. Michalove
MAYOR

William F. Wolcott, Jr.
CITY CLERK

Tuesday - October 15, 1991 - 4:00 P.M.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott

Absent:

INVOCATION

The invocation was given by Councilman Ellison.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the minutes of the September 17, 1991, October 1, 1991, and October 8, 1991 meeting as submitted.

I. PROCLAMATIONS:

A. **Proclamation - United Nations Day - October 24, 1991**

Mayor Michalove proclaimed October 24, 1991 as "United Nations Day".

B. **Proclamation - "Dr. Martin Luther King, Jr. Memorial Week" - October 14 - 20, 1991**

Mayor Michalove proclaimed the week of October 14 - 20, 1991 as "Dr. Martin Luther King, Jr. Memorial Week" in recognition of a sculpture to be placed in a special garden in the Martin Luther King, Jr. Park.

Mayor Michalove presented the proclamation to Oralene Simmons, who recognized other members of the Martin Luther King, Jr. Memorial Committee.

C. **Proclamation - "Voice of Democracy Month" - October, 1991**

Mayor Michalove proclaimed the month of October, 1991 as "Voice of Democracy Month".

II. PUBLIC HEARINGS:

III. OLD BUSINESS:

A. **Resolution No. 91-176 - Resolution to adopt the Comprehensive Housing Affordability Strategy.**

Mayor Michalove said the Comprehensive Affordability Strategy (CHAS) identifies low and moderate income housing needs and analyzes the institutional capacity and available resources to address these needs. The CHAS also contains a five year strategy and priority for addressing the needs. Also included is a one year plan that contains goals for low and moderate income housing. Approval of the CHAS by HUD is a requirement for the City to remain eligible for Community Development Block Grant and other HUD housing resources.

Marvin Vierra, Director of Community Development, said during the presentation of the CHAS to City Council on October 1, 1991, Council expressed concern about: (1) Organizational relationship of the new Housing Affordability Task Force; (2) Cost responsibility of the City for the housing goals; (3) Staff support for CHAS recommendations and (4) duties of the Task Force. He presented a detailed clarification of each of these concerns

A lengthy discussion was held relative to the hiring of additional staff to implement the CHAS project. It was noted that perhaps the Housing Committees, i.e. Housing Authority, Habitat for Humanity, Mountain Housing could provide the staff support and monitoring responsibilities on a volunteer basis.

Councilman Frank also suggested that the banking community fund the position.

Tony Clarke-Sayre, Chairman of the CHAS Task Force, said he personally felt a full time dedicated staff person would be needed to direct the program.

After discussion, Vice-Mayor Moore moved to adopt Resolution No. 91-176 adopting the CHAS Plan deleting the section in the CHAS plan entitled "Staff Support for CHAS implementation". This motion was seconded by Councilman Bratton and carried unanimously.

It was noted that the Housing Authority/Community Development Committee would discuss the position needed for directing the CHAS project.

Resolution Book No. 19 - Page 17 - 18

B. Report relative to South Pack Square Redevelopment Project.

Verl Emrick, with the Planning Department, said on September 17, 1991 the redevelopment plan for the South Pack Square Improvement Area - Phase II was presented to members of Council. He said after discussing the plan it was requested that the staff review the effect of removing the seven (7) specific properties presently included in the Pack Plaza Redevelopment Project and making them a part of the proposed South Pack Square Improvement Area - Phase II.

He said the staffs of the YMI, Planning Department and Housing Authority, South Pack Square Association, and Housing/Community Development Committee recommend the following in order to accomplish the goals and objectives of the forthcoming South Pack Square Improvement Area Redevelopment Plan.

1. That no formal boundary amendment to the existing Pack Plaza Redevelopment Plan be undertaken at this time.

2. In lieu of such an amendment that the areas outlined in an Exhibit E - be included and addressed in the South Pack Square Improvement Area Redevelopment Plan as a "Planning Overlay" area for the purposes of implementing the goals and objectives of the South Pack Square Plan.

After discussion, Councilman Ellison moved to accept the staff recommendations as presented. This motion was seconded by Vice-Mayor Moore and carried unanimously.

C. Final Plat approval - Beaver Lake Heights Subdivision.

Don Sherrill, from the Planning Department, said at the June 4, 1991 meeting, the Asheville City Council approved the preliminary plat for Beaver

Lake Heights Subdivision subject to the following contingencies:

1) The proposed street be constructed to City standards and be dedicated to the City once completed.

2) The developer be responsible for installing a 2 inch water line but in no case shall the line be extended more than 1000 ft. in order to tie into the existing City water system and the water lines shall meet all state and local regulations;

3) That each house be installed with sprinklers;

4) That approval is contingent upon the Water Authority approving and moving ahead with the installation of the 6" water line along Merrimon Avenue to increase the pressure and quantity of the water in the area; and

5) The project shall comply with the City's Erosion Control Ordinance.

The roadway has been constructed to City standards. The Public Works Department has made an inspection of the street and the roadway meets the requirements for acceptance by the City of Asheville. However, the Public Works Department will require that the driveway entrances be sloped toward the roadway and that rip rap be placed at the storm drain.

The improvements to the water line along Merrimon Avenue have been completed and have resulted in an increase in water flow and pressure to the area.

The 2 inch water line has been installed according to the appropriate specifications and certified by the utility contractor and an engineer. As built drawings have been submitted to the City Engineering Department.

A Wastewater Collection Permit was issued by the N. C. Environmental Management Commission with the Department of Environment, Health and Natural Resources. The sewer lines have been installed to the appropriate specifications for connection to the MSD system.

The site is currently in compliance with the City's Erosion Control Ordinance.

After discussion, Councilman Ellison moved to approve the final plat for the Beaver Lake Heights Subdivision subject to the following contingencies: (1) That each house be installed with sprinklers and (2) that the entire project comply with all city and state codes. This motion was seconded by Councilman Estes and carried unanimously.

IV. NEW BUSINESS:

A. Goal Statements for Downtown Parking.

Mayor Michalove said Councilman Frank, Councilman Bratton, City Staff, and the Downtown Commission has recommended the following goal statements for Downtown Parking: "To progressively market and systematically manage parking in the central downtown core in order to accomplish economic growth, firm yet sensitive enforcement and a self-supporting position in the Parking Enterprise Fund (balancing revenue with operations, small capital and general maintenance costs). Implementation will be by the Downtown Development office."

He said the 1991-92 Objectives (as submitted and approved with budget) area as follows:

1. Enroll more merchants in the validation program - an increase of 25 enrollees over previous year.

2. Continue to keep parking decks clean. Find good way to deal with pigeon problem.

3. Produce revenues so as to cover operational costs and hopefully cover some of bond costs - 25% increase in revenues over previous year (an increase of $132,966).

4. Focus on working closer with the Civic Center - pre-paid parking for events and parking information in advertising of Civic Center.

5. Continue to implement parking marketing plan resulting in 25% increase in revenues.

6. Enforce parking appropriately, focusing on targeting habitual violators and concentrating on key areas.

7. Examine parking system fees and other issues with report to Downtown Commission by December 30, 1991.

Councilman Frank said Council should initiate these goals and objectives in order to supplement the debt service for the Parking Garages.

Councilman Ellison suggested that the language "yet sensitive" be deleted from the goal statement in order to be specific and make sure there is no favoritism shown.

Mayor Michalove said he felt an example of "sensitive" would be that during the day parking is enforced along Haywood and O'Henry and at night, especially during an event at the Civic Center, parking restrictions are not enforced so stringently.

After discussion, Vice-Mayor Moore moved to approve the Goal Statements for Downtown Parking and the 1991-92 Objectives with the deletion of the words "yet sensitive" from the goal statement. This motion was seconded by Councilman Frank and carried unanimously.

B. **Report relative to parking fees.**

Don Martell, Chairman of the Downtown Commission, presented the following recommended fee structure for parking facilities for the purpose of increasing utilization of the facilities:

	Current	Proposed
Civic Center Deck		
- 550 Spaces		
Top Level group rate (10 or more)		$20/month
Group Rate (10 or more)		$24/month
Monthly rate-individual	$30/mth	$28/month
Transient	$.50/hour	
	$2.50/day	
Rankin Ave. Deck - 262 spaces		
Monthly Rate -individual	$30/month	
Transient	$.50/hour	
	$2.50/day	
Wall Street Deck - 232 spaces		
Monthly rate -individual	$30/month	
Transient	$2.50/day	
Surface Lots		**Value priced (range: $10-20)**

Mr. Martell indicated that the occupancy rate for the Civic Center Deck is 36% and the other decks have an occupancy rate of 50 - 60%.

A discussion was held relative to two or three businesses getting together to form a group in order to get the group rate of 10 or more.

Leslie Anderson, Downtown Development Director, said the policies have not been defined but she felt the Commission would be creative with the neighborhood residents.

Council suggested that the area businesses be notified that they could form a group of 10 or more to get a group rate.

Vice-Mayor Moore moved to accept the parking fee structure as recommended by the Downtown Commission and to amend the Fees and Charges Manual to reflect the changes in parking fees at the Civic Center Parking Garage from $30/monthly to $20 monthly for top level group rates of 10 or more; $24 monthly for group rates of 10 or more; and $28 monthly for individuals. This motion was seconded by Councilman Price and carried unanimously.

Councilman Price left the meeting at 5:20 unexcused.

D. **Bids - Parking Meter Mechanisms.**

The City Manager presented the bids with a recommendation for award of 307 new parking meter mechanisms for Downtown Development Department, Parking Division to low bidder, POM Incorporated, Russellville, Arizona, in the amount of $24,870.00 at a unit price of $81.01. He said funds are budgeted in the Parking Division's account and a 400% increase in revenue is expected.

Vice-Mayor Moore moved to accept the recommendation for award to the low bidder, POM Incorporated in the amount of $24,870.00 for 307 new parking meter mechanisms. This motion was seconded by Councilman Frank and carried unanimously.

A complete bid summary is on file in the Office of the City Clerk.

E. Ordinance No. 1950 - Budget Amendment to allocate funds to construct restroom facilities at the Shiloh Ballfield.

The City Manager said the Shiloh Ballfield does not have a restroom facility located adjacent to the field. When the field was originally constructed it was the intent to have users of the ballfield be able to use the facilities in the recreation center. However, due to games scheduled at times other than when the center is open, the need for the restroom is apparent. He said this budget amendment in the amount of $30,000 will appropriate funds to construct the restroom facilities.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Vice-Mayor Moore moved for the adoption of Ordinance No. 1950. This motion was seconded by Councilman Ellison.

On a roll call vote of 7-0, Ordinance No. 1950 passed on first and final reading.

Ordinance Book No. 13 - Page 6

F. Ordinance No. 1951 - Budget Amendment to allocate additional funds for Chillers at the Civic Center.

The City Manager said a major, budgeted repair project has commenced on the Civic Center's main air-conditioning equipment. Upon disassembly, unanticipated damage was noted in the internal components of the unit. One part requires replacement and another part requires more extensive repair than envisioned in the scope of work section of the repair contract with Compressor Services, Inc., the low bidder. Completion of the original contract, and operation of the air-conditioning system, cannot proceed until the additional work, funded by this budget amendment in the amount of $17,866, is performed.

Mayor Michalove said members of Council were previously furnished copies of the ordinance and it would not be read in its entirety.

Vice-Mayor Moore moved for the adoption of Ordinance No. 1951. This motion was seconded by Councilman Frank.

On a roll call vote of 7-0, Ordinance No. 1951 passed on first and final reading.

Ordinance Book No. 13 - Page 7

G. Sale of Disposal Parcel 106 - East End/Valley Street Community Improvement Program.

The City Manager said the Housing Authority has tentatively accepted a bid, in the amount of $1,000 for the sale of Disposal Parcel 106 in the East End/Valley Street Community Improvement Program. The Redeveloper, Mae Belle Anderson Cureton, is the owner of the adjoining residential property and plans to use the parcel to enlarge her present lot. Parcel 106 is not independently buildable due to its irregular shape.

H. Resolution No. 91-177 -Resolution approving Leicester Highway plans and authorizing the Mayor and City Clerk to execute a Municipal Agreement with the North Carolina Department of Transportation.

The City Manager said the North Carolina Department of Transportation has developed and adopted plans for improving Leicester Highway from the Asheville City Limits to Newfound Road. He said the Agreement between the City and the North Carolina Department of Transportation spells out the responsibility of both the City and the Department of Transportation for accomplishing the project. The Department of Transportation will be responsible for plan preparation, right of way acquisition, utility relocation and construction of the project. The City of Asheville will be responsible for relocation and adjustment of municipally owned and franchised utilities.

Chris JoHansen requested that the City officials encourage the North Carolina Department of Transportation to provide bicycle lanes in any of their new improvement projects.

Mayor Michalove said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Ellison, seconded by Councilman Frank, Resolution No. 91-177 was unanimously adopted.

Resolution Book No. 19 - Page 19-20

V. CONSENT:

VI. OTHER BUSINESS:

A. **Report of Group Development Actions by Planning and Zoning Commission**

Don Sherrill from the Planning Department, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. He said in accordance with the new procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. He said the following action was taken by the Planning and Zoning Commission at their meeting on October 2, 1991.

(1) **Public Service Building**

Don Sherrill said the Asheville Planning and Zoning Commission on October 2, 1991, reviewed and approved the site plan of Public Service Building to be located at 91-93 Patton Avenue. He said the project was approved with no contingencies and no opposition was received.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

(2) **Lowe's Companies, Inc. - South Tunnel Road**

Don Sherrill said the Asheville Planning and Zoning Commission on October 2, 1991, reviewed and approved the site plan of Lowe's Companies, Inc. on South Tunnel Road subject to the following contingency:

1. Approval of a driveway permit by NCDOT for the proposed driveway entrances.

Mr. Sherrill said several individuals have expressed opposition to this project.

Mayor Michalove indicated that at their work session on October 8, 1991 Council consented to scheduling a public hearing on this group development plan for October 29, 1991.

B. Forest Lake Subdivision

At the request of Don Sherrill, from the Planning Department, Vice-Mayor Moore moved to schedule the Forest Lake Subdivision for the October 29, 1991 City Council agenda. This motion was seconded by Councilman Bratton and carried unanimously.

C. Presentation relative to North Asheville Park

Mayor Michalove announced that the Chairman of the Parks and Recreation Advisory Board will be establishing a committee to give Council recommendations relative to the proposed North Asheville Park. He said the Committee will consist of the Parks and Recreation Advisory Board and representatives of the neighborhood both for and against the proposed park.

He said the Committee will have their initial meeting on October 28, 1991 at 7:30 p.m. at the Ira B. Jones School to discuss various ideas and resolutions. He said the committee will be giving members of Council their recommendations in mid to late January, 1992.

Mayor Michalove said in the meantime Council members will be receiving a report from the Parks and Recreation Staff on parks in general and priorities pertaining to the parks.

D. Construction on/near landfills

Vice-Mayor Moore requested that the City adopt formal or written guidelines/policies for construction on or near landfills.

E. Public Market Idea - Grove Arcade

The City Manager said the public market idea for the Grove Arcade has been discussed extensively by the news media lately and he wanted to note that the burden of what establishments will go in the downtown building will be on the City of Asheville. He said the City has plenty of time to deal with this matter; however, he anticipates that the City will establish a procedure whereby any developer could present a proposed project to the City - the City would evaluate the project and decide what activities would go into the Grove Arcade based on economic and downtown development.

F. Meeting - Patton Avenue Street Project

Mayor Michalove reminded members of Council that a meeting would be held at the Asheville Civic Center Banquet Room on Thursday, October 17, 1991 at 7:30 p.m. to receive public input into the proposed Patton Avenue Street Project.

G. **Minority Business Commission - Appointment - Ann Davis**

Mayor Michalove noted that members are appointed to the Minority Business Commission based on their affiliation to certain organizations. He said Ken Jackson was appointed a member of the Minority Business Commission as an affiliate to the Council of Independent Business Owners (CIBO). He said Ken Jackson can no longer serve on the Commission and CIBO has requested the appointment of Ann M. Davis of 31 Graystone Road.

Councilman Ellison moved to appoint Ann M. Davis a member of the Minority Business Commission to serve the unexpired term of Ken Jackson as an affiliate of the Council of Independent Business Owners. This motion was seconded by Councilman Bratton and carried unanimously.

H. **Pack Plaza Project**

The City Attorney said Council will consider a resolution at their work session on October 22, 1991 to authorize the Mayor and the City Attorney to execute a subordination agreement for the Pack Plaza Project to enable the Bank of Scotland to maintain a first lien priority position for its prior funding of the Pack Plaza Project in the principal sum of $7,779,200 and an additional principal amount of up to $3,300,000.

Councilman Ellison said the City Attorney informed him that it would not be a conflict of interest for him to discuss or vote on an issue dealing with the Pack Plaza Project just because he is in the process of negotiating a rental lease in the Pack Plaza Project.

I. **Petition - Sidewalks on Fairview Road**

Vice-Mayor Moore presented a petition he received from residents requesting that the sidewalk on Fairview Road be extended from Oakley Elementary School to River Ridge Market Place, and from Merchant Street to Biltmore, to provide safety for pedestrians. He said the petition contained some 607 signatures.

The City Manager said he would have the petition investigated.

J. **Claims - Swannanoa Cleaners (Sanitation) - Carolyn Shank (Downtown Development) - Rick Rohrbough (Water) - Connie Cohn (Water) - Bart Paschel (Water) - Linda Hardy (Water) - Derek Morris (Water) - David Myers (Streets) - Louis Dilalo (Inspections) - Perry Hines (Water)**

The City Manager said claims were received from Swannanoa Cleaners, Carolyn Shank, Rick Rohrbough, Connie Cohn, Bart Paschel, Linda Hardy, Derek Morris, David Myers, Louis Dilalo, and Perry Hines.

Mayor Michalove said these claims have been referred to the appropriate insurers for investigation.

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 5:45 p.m.

H. Lee Michalove
MAYOR

William D. Wolcott
CITY CLERK

Tuesday - October 22, 1991 - 4:00 P.M.

City Council Worksession

Present: Mayor Kenneth M. Michalove, Presiding; Vice Mayor William G. Moore, Councilmen Mary Lloyd Frank, Eugene W. Ellison, Wilhelmina Bratton, William W. Estes and Norma T. Price; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent:

(1) - Presentation - Transit Authority

The Transit Authority made a presentation to members of Council relative to their progress, insights, innovations, and future funding.

(2) Resolution No. 91-178 - Resolution authorizing the Mayor and the City Attorney to execute a subordination agreement for the Pack Plaza Project.

Councilman Ellison moved for the adoption of Resolution No. 91-178. This motion was seconded by Councilman Estes and carried unanimously.

Resolution Book No. 19 - Page 21

Mayor Michalove adjourned the meeting at 4:45 p.m.

K.M. Michalove
MAYOR

William F. Wolcott
CITY CLERK

Tuesday-October 29, 1991-4:00 p.m.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott

Absent: None

INVOCATION

The invocation was given by Councilman Price.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the October 15, 1991, and October 22, 1991, City Council minutes as submitted.

ANNOUNCEMENT OF CITY MANAGER INTERN

City Manager Bean introduced Ben Wax, Superintendent of Recreation in the Parks, Recreation and Public Facilities Department, who has the pleasure of being the City Manager Intern for this quarter.

I. PROCLAMATIONS:

A. PROCLAMATION - LUPUS AWARENESS MONTH - OCTOBER, 1991

Mayor Michalove proclaimed the month of October, 1991, as "Lupus Awareness Month."

B. PROCLAMATION - READING IS COOL - WEEK OF NOVEMBER 4-9, 1991

Mayor Michalove proclaimed the week of November 4 - 9, 1991, as "Reading is Cool" week and presented the proclamation to Ms. Ann Hunting-Williams, Program Director for the Pisgah Girl Scout Council Inc.

C. RESOLUTION NO. 91-179 - RESOLUTION OF APPRECIATION TO RECENT RETIREE, JAMES WALDROP

Due to the absence of Mr. Waldrop, Mayor Michalove read and presented the resolution of appreciation of James Waldrop to Fire Chief John Rukavina.

Upon motion of Councilman Ellison, seconded by Vice-Mayor Moore, Resolution No. 91-179 was unanimously adopted.

Resolution Book No. 19 at Page 23

D. **RESOLUTION NO. 91-180 - RESOLUTION OF APPRECIATION TO RECENT RETIREE, FURMAN HANEY**

Jim Ewing, Director of Public Works, said Furman Haney has served the City of Asheville and its citizens for 31 years in the Street Division and was sorry to lose such a valuable employee.

Mayor Michalove read the resolution of appreciation.

Upon motion of Councilman Ellison, seconded by Vice-Mayor Moore, Resolution No. 91-180 was unanimously adopted.

Resolution Book No. 19 at Page 24

E. **REPORT FROM THE MINORITY BUSINESS COMMISSION**

Mr. Larry Linney, Chairman of the Asheville Minority Business Commission, gave a detailed and statistical status report which is to be made annually.

Mr. Linney stated that the following are recommendations by the Minority Business Commission to the City of Asheville:

1. Establish a joint City-County Minority Business Plan.

2. Restore the 5% penalty for contractor non-compliance with the Minority Business Plan in performing good faith efforts in construction contracts.

3. Have department and division heads assign a person in each department and/or division who deals with contracts to inform the Minority Business Coordinator of executed contracts with minority businesses.

II. PUBLIC HEARING:

PUBLIC HEARING RELATIVE TO GROUP DEVELOPMENT PROJECT OF LOWE'S COMPANIES INC. TO BE LOCATED ON SOUTH TUNNEL ROAD

Mayor Michalove opened the public hearing at 4:35 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date for the public hearing and affidavit of publication.

Don Sherrill, Urban Planner in the Planning Department, stated that this group development request is a proposal to construct a new 71,407 square foot store on South Tunnel Road. The proposed store will replace the existing Lowe's in Biltmore. The site is located between the Asheville Mall and the Dreamland Drive-In. The land is 15.58 acres in area and lies within the Commercial Highway zoning district. The site is mostly wooded and contains an historically significant house. A floodplain and wetlands area are located on the site.

Mr. Sherrill stated that the City's parking standards require 198 parking spaces and the developer was proposing 381 spaces, but has since reduced the number of parking spaces by 51. There is water, sewer and fire protection services available to the site. Two driveway entrances are proposed and they will require approval by NC DOT. The landscaping plan submitted exceeds the City's landscaping/buffering requirements. The site plan meets the requirements of the City's floodplain ordinance. A grading plan has been submitted to the City's sedimentation and erosion control staff and they are currently revising the plans for compliance with the City's erosion control ordinance.

Mr. Sherrill stated that a great deal of concern was expressed by the public regarding preservation of existing trees, the amount of impervious surfaces and preservation of the historic house located on the property. The grading plan submitted indicates that the vast majority of existing trees will be removed from the site. Several groups of trees will be retained within the floodway and wetlands area and a few trees will remain along the Asheville Mall side of the property. Currently our ordinances only specifically regulate the removal of trees from within public rights-of-way. Lowe's has donated the historic house to the Asheville-Buncombe Preservation Society and it will be moved.

Mr. Sherrill stated that the staff recommendation to the Planning and Zoning Commission included two contingencies: (1) Approval of a driveway permit by NC DOT; and (2) The proposed parking not exceed the ordinance requirements by more than 25% or a total of 250 spaces.

Mr. Sherrill said at the Planning and Zoning Commission's meeting on October 2, 1991, they voted to recommend approval of the proposed Lowe's to be located on South Tunnel Road subject to approval of a driveway permit by NC DOT for the proposed driveway entrances. He stated

that since the October 1, 1991, meeting, that approval of a driveway permit by NC DOT has been obtained.

Mr. Sherrill stated that since the approval of the group development request by the Planning and Zoning Commission, representatives of Lowe's have been working with the Tree and Greenway Commission, City staff, City officials and the Asheville-Buncombe Preservation Society to develop plans sensitive to the community. He stated that Lowe's efforts have included tree preservation, donation of the historic house to the Asheville-Buncombe Preservation Society for relocation to another site, donation of trees to the City for future plantings, reduction in the number of parking spaces and the inclusion of trees within the proposed landscaping plan that substantially exceeds the size requirements included in the City's landscaping ordinance.

Mr. Sherrill stated that the Tree and Greenway Commission and the City's Public Works Department have encouraged the developer to install sidewalks along South Tunnel Road. He said the developer has indicated a willingness to split the cost of the sidewalks with the City. Although the City has no regulation requiring sidewalks to be included within group development projects, typically a developer is required to cover the cost of sidewalk installation if they chose to install sidewalks within the public right-of-way. If the sidewalks are constructed to City standards, the City will then take over maintenance of those sidewalks.

Upon inquiry of Councilman Price about a traffic light at the entrance, Mr. Sherrill explained that NC DOT waits 30 days after the opening of a store and then does a traffic study to see if a traffic light is warranted. He did state, however, that some developers foot the bill upfront and install a traffic light.

Councilman Ellison asked about sidewalks from a safety standpoint.

Councilman Price stated that Council has in the past required developers to install sidewalks in other group developments.

Mr. Dan Pardue, representative of Lowe's, stated that the approximate cost to install sidewalks at that location would be $4,500-$5,000.

Ms. Becky Williams, representative of the Chamber of Commerce, spoke in favor of Lowe's from an economic standpoint.

Ms. Susan Roderick, Chairman of the Tree and Greenway Commission, spoke in support of Lowe's.

Mayor Michalove read a letter from Dr. Orbison from the Tree and Greenway Commission expressing his support of the project.

Mr. Chris Johanson commended Lowe's on their progress to date. He was somewhat disturbed that a letter which he sent expressing his comments were not recognized by the Planning and Zoning Commission members.

Ms. Leni Sitnick, member of the Asheville Tree and Greenway Commission, made positive statements about the growth and development in Asheville and spoke in favor of the Lowe's project. She would like for the Council to strengthen the tree ordinance.

Ms. Hazel Forbes spoke in support of Lowe's and felt that the public helped Lowe's become a member of the society.

Mr. Bob Long Jr., attorney for Joe Pless (who will be a neighbor of Lowe's on S. Tunnel Road), stated that Mr. Pless was in support of Lowe's but just recently found a problem in the storm water drainage plan. He stated that the storm water from the Lowe's project will be running onto Mr. Pless' property. Mr. Long did propose two alternatives to Lowe's: (1) If Lowe's would extend pipe to the creek, Mr. Pless would give them an easement to do so; or (2) If Lowe's would bring pipe to the edge of their property line, Mr. Pless would bring the pipe the rest of the way to the creek.

Mr. Pardue stated that Lowe's has complied with all City regulations concerning storm water regulations but would be willing to work with Mr. Pless and the City Engineering Division to alleviate this problem.

It was then determined, to the satisfaction of Mr. Pless and Mr. Pardue, that Mr. Pless would tell Lowe's where his pipes were underground in order that Lowe's could hook their pipes to his, thereby routing the water underground through Mr. Pless' property to the creek. Mr. Pardue stated that if Mr. Pless provided the pipe, he would have Lowe's contractor put it in.

Mayor Michalove closed the public hearing at 5:36 p.m.

Vice-Mayor Moore moved to approve the site plan submitted to the City Council on this date (Sheet SP11, the revised version - 330 parking spaces) conditioned upon sidewalks installed to City specifications and drainage routed to a point at the border of the Dreamland Drive-In property as designated by Mr. Pless so as to enable Mr.

Pless to route the water through the Dreamland Drive-In property. This motion was seconded by Councilman Ellison and carried unanimously.

Councilman Price asked that Lowe's work with NC DOT and Overlook Village regarding the installation of a traffic light at their entrance.

IV. NEW BUSINESS:

A. REPORT RELATIVE TO BRACKETTOWN ROAD

This report was postponed until the meeting of November 19, 1991.

B. RESOLUTION NO. 91-181 - RESOLUTION REAFFIRMING THE RELATIONSHIP BETWEEN THE CITY OF ASHEVILLE AND THE BELE CHERE TRUSTEES AND BOARD OF DIRECTORS

Mr. Jim Daniels, in the absence of Ms. Robin Daniel, read a statement relative to the Bele Chere Festival.

Mr. W. Louis Bissette, Jr., read the resolution and reaffirmed it.

Councilman Bratton stated that she felt that Bele Chere is a marketing department for the City of Asheville.

Councilman Ellison stated that he supported Bele Chere but had a concern about an item which came up at the City Council retreat which was to look at the relationship of all festivals by a team of three - Mayor Michalove and Councilmen Bratton and Estes. He felt that since the City is ultimately responsible for the Bele Chere Festival, the City Council should have the right to appoint members to the Board of Trustees. He felt that until the report from Council members is reviewed regarding the Bele Chere Festival, that adopting this resolution would be premature. He stated that this resolution should be tabled.

Mr. Bissette stated that delaying this action would result in postponing the recruiting of a new Festival Chairman and Board members which needs to be done immediately in order to execute effectively the purposes of the festival.

Mayor Michalove stated that since the next Council meeting would not be until November 19, 1991, that a liaison from the City Council be appointed in order that they don't hold up planning and activities for next year's festival.

Councilman Bratton stated that since the City has already had the Goombay Festival, the Greek Festival and Octoberfest Festival without the report requested at the retreat, that the Council should go ahead and adopt this resolution for the Bele Chere Festival. She felt that the people of the Bele Chere Festival are working on the City's behalf and should not be held up until the report is made.

Upon inquiry of Councilman Frank, City Attorney Slawter stated that this resolution could be adopted today and in the future if Council decides to make changes, the resolution can be amended.

Councilman Frank suggested that Councilman Ellison be appointed the liaison from the City Council to the Bele Chere Board of Directors but Councilman Ellison declined.

Vice-Mayor Moore spoke in support of the Bele Chere Festival and stated that they do need a statement of support to continue with their ongoing plans. He stated that adopting this resolution today would in no way preclude the City Council from looking into the relationship of the City and the Bele Chere Festival.

Councilman Bratton moved to adopt Resolution No. 91-181. This motion was seconded by Councilman Frank.

Councilman Price stated that the City Council should be more supportive of all the volunteers and that the need to recruit a Festival Chairman needs to be done and let the planning process continue.

Councilman Ellison felt that if Council passes this resolution today that it would be contrary to what they will be looking at in terms of the relationships between the Council and the festivals. He stated that he was not against Bele Chere, only the process. He stated that there was not one black citizen on the Board of Trustees and because only past Festival Chairmen can serve on the Board, he felt that the Board of Trustees is a private club which controls the Festival.

Councilman Bratton stated that she is now the City Council liaison to the Bele Chere Board of Directors and has, and will continue to meet with Mr. Daniels and Mr. Bissette expressing concerns until her term ends.

Councilman Estes saw no reason why the Council needed to adopt a resolution at all. He felt that at least one or two people, whether they be City Council

members or City Council appointees, needed to be appointed to the Board of Trustees.

Mr. Bissette explained the structure of the Bele Chere Festival, stating that the Board of Trustees are more of an honorary group which meet approximately four times a year. He said that they do select a Festival Chairman but the Board of Directors, which has a broad cross section of people, really run the Festival. He did state, however, that the Board of Trustees is made up of past Festival Chairmen since these people have had the experience of working through a festival year.

Councilman Price stated that this would be the first time the Board of Trustees heard that City Council wanted someone on the Board.

At 6:20 p.m. Mayor Michalove stated that there was a question of liability and asked for a motion to go into executive session for five minutes. Vice-Mayor Moore moved for a five minute executive session. His motion was seconded by Councilman Bratton and carried unanimously.

At 6:25 p.m. Councilman Ellison made a substitute motion indicating City Council's full support of Bele Chere and that Bele Chere is authorized to recruit a Chairman.

Mr. Bissette requested that the resolution be adopted for insurance purposes.

Mr. Charles Worley suggested the resolution be adopted and if there are changes to be made that they are made after the Festival in order not to disrupt the plans for this year.

Mayor Michalove suggested an addendum to the resolution to read as follows: Be it further resolved that the City Council will appoint a liaison from the City Council and two at large members to the Board of Directors (underlining denotes change).

Councilmen Bratton and Frank were opposed to adding that to the motion to adopt the resolution.

Vice-Mayor Moore was somewhat disturbed that at first Councilman Ellison was opposed to the resolution on procedural grounds and now he is opposed to the resolution because he feels the Board of Trustees is racially segregated.

Councilman Ellison stated that he was not saying that anyone on the Board of Trustees is closed, but

that the Board of Trustees as a whole is closed because not anyone from the City of Asheville can serve on that Board unless they are a past Festival Chairman. He feels that there is an unwillingness to open up for other representation and that this is a closed club in the City of Asheville.

The earlier motion to adopt Resolution No. 91-181 was adopted on a 5-2 vote, with Councilmen Ellison and Estes voting "no."

Councilman Price stated that she didn't disagree with the possibility of two members being put on the Board and it may very well be appropriate for that to be done for all the City's boards and commissions.

Councilman Estes stated his support for Bele Chere and felt concerned that there is no direct communication between the City Council and the Board of Trustees. He felt the idea of two members appointed by the City Council needs to be cultivated.

Councilman Ellison moved that the Asheville City Council appoint two at large members to the Board of Trustees and a liaison from the City Council to the Bele Chere Board of Directors. This motion was seconded by Councilman Estes.

Councilman Bratton suggested an amendment to the above motion stating that where there are festivals and monies involved that City Council have representation on the boards.

Councilman Ellison rejected the suggestion by Councilman Bratton.

The motion by Councilman Ellison and seconded by Councilman Estes above was defeated on a 2-5 vote, with Mayor Michalove, Vice-Mayor Moore, Councilmen Bratton, Frank and Price voting "no."

Mr. Eugene C. Ochsenreiter Jr. restated that the Board of Trustees leans on experience and that the Board would be happy to work with the City Council for the good of all citizens of the City of Asheville.

Resolution Book No. 19 - Page 25

C. FINAL PLAT APPROVAL - FOREST LAKE SUBDIVISION

Mr. Gerald Green, Senior Planner in the Planning Department, said that on February 14, 1990, the Planning and Zoning Commission granted preliminary plat approval for Forest Lake Subdivision, a 135 lot

development located on Rock Hill Road. He said the Commission recommended approval of variances to permit a cul-de-sac right-of-way radius of 45 feet (rather than 50 feet) and to permit street grades in excess of 12%. He said the City Council granted these variances on March 13, 1990.

Mr. Green said that the one year period of validity for the plat and variance approvals has expired and the developers are seeking reaffirmation of the earlier approvals. He said final plats have been approved for two phases (35 lots) and the final plat has been submitted for Phase III.

Mr. Green stated that on October 2, 1991, the Planning and Zoning Commission reaffirmed its February 14, 1990, approval of the preliminary plat and recommended approval of the requested variances/modifications as follows: (1) Permit a right-of-way radius of 45 feet at the cul-de-sac turnaround; and (2) Permit a section of road approximately 150 feet in length to have a grade of 17% and a section of road approximately 130 feet in length to have a grade of 18%.

Councilman Ellison moved to affirm the preliminary plat approval for Forest Lake Subdivision dated February 14, 1990, at which time the Commission recommended approval of variances to permit a cul-de-sac right-of-way radius of 45 feet (rather than 50 feet) and to permit street grades in excess of 12%. He said the City Council granted these variances on March 13, 1990. This motion was seconded by Councilman Price and carried unanimously.

Vice-Mayor Moore moved to approve the site plan (revised September 23, 1991, Job No. 91-163-C), of Forest Lake Subdivision - Phase III - with the following conditions: (1) Permit a right-of-way radius of 45 feet at the cul-de-sac turnaround; and (2) Permit a section of road approximately 150 feet in length to have a grade of 17% and a section of road approximately 130 feet in length to have a grade of 18%. This motion was seconded by Councilman Price and carried unanimously.

C. REPORT RELATIVE TO PATTON AVENUE SIDEWALK PROJECT

Mayor Michalove stated that the City will proceed with bidding this project and asks that bid specifications be prepared with an alternate bid for closing the vaults.

D. ORDINANCE NO. 1952 - AN ORDINANCE AMENDING CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE (PARKING METER RATES)

City Attorney Slawter stated that this amendment will remove references to specific rates for parking meters in favor of listing the rates in the Fees and Charges Manual. He also said that Section 28-122 now refers to 5 cent coins or 10 cent coins being used in meters and since the City will now have 25 cent coins used as well, the amendment will also have revised language to that effect.

Mayor Michalove said the ordinance was previously read and would not be read in its entirety.

Vice-Mayor Moore moved for the adoption of Ordinance No. 1952. This motion was seconded by Councilman Frank.

On a roll call vote of 7-0, Ordinance No. 1952 passed on first reading.

Vice-Mayor Moore moved to suspend the rules and proceed to the second reading of Ordinance No. 1952. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1952 passed on second reading.

Councilman Price moved to amend the ordinance to be effective upon January 1, 1992, or as soon thereafter as the new mechanisms are in place. This motion was seconded by Councilman Frank and carried unanimously.

Vice-Mayor Moore moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1952, as amended. This motion was seconded by Councilman Frank and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1952 passed on its third and final reading.

Ordinance Book No. 13 at Pages 8-9

F. REPORT OF CITIZENS/POLICE ADVISORY COMMITTEE

Police Chief Gerald Beavers, on behalf of Chairman Andrea Purcell who had to leave the meeting earlier due to a previous commitment, gave a report of the Citizens/Police Advisory Committee.

Chief Beavers said that it was the consensus of the Committee that all Committee members do a ride along with a police officer in order to familiarize themselves with the activities of the Police Department. It was also the consensus of the Committee that they attend the Citizens/Police Academy which meet for four weeks on every Tuesday and Thursday.

Chief Beavers requested Council assistance in replacing one member who has never attended a meeting and one member who has resigned. Councilman Price suggested that the Committee adopt by-laws and Chief Beavers stated that they would look into that at an upcoming meeting.

Chief Beavers welcomed ideas and suggestions from the Council and stressed that the Committee wishes to become a channel of communication.

G. MOTION REJECTING ALL BIDS RECEIVED FOR THE CONTRACT FOR THE WEST CHAPEL CIRCLE STORM DRAINAGE PROJECT.

City Manager Bean stated that sealed bids were rejected at the original bid opening for the West Chapel Circle Storm Drainage Project on October 1, 1991, because only two were submitted. He said in accordance with the Readvertisement for Bids, sealed bids were once again received in the City Engineer's office on October 18, 1991. He said only one bid, responsive to the City of Asheville's Minority Business Plan was received. Therefore, it is staff's recommendation to reject all bids at this time and readvertise.

Councilman Ellison moved to reject all bids received for the contract for the West Chapel Circle Storm Drainage Project. This motion was seconded by Vice-Mayor Moore and carried unanimously.

V. CONSENT:

A. RESOLUTION NO. 91-182 - RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASHEVILLE TO EXECUTE AN EASEMENT IN FAVOR OF CAROLINA POWER AND LIGHT COMPANY FOR PROPERTY ON SOUTH CHARLOTTE STREET.

Carolina Power and Light Company has requested that the City of Asheville execute a right-of-way easement on property belonging to the City of Asheville on South Charlotte Street for underground utilities for the Public Works Complex.

B. BIDS - DUAL DRIVE DISK TRAY AND LINE II COMPILER FOR FINANCE DEPARTMENT, INFORMATION SERVICES DIVISION.

Recommendation to award to low bidder, Unisys Corporation, Charlotte, North Carolina, in the amount of $42,541.00 for the purchase of two (2) "Unisys" model M9612-00 disk trays at a unit price of $21,270.50. A complete set of bid documents are attached hereto and made a part hereof.

C. BIDS - OPEN AREA WORKSTATIONS AND OFFICE FURNITURE FOR THE CITY HALL BUILDING.

Recommendation to award bids as follows: Hoyle Office Supply, Asheville, North Carolina - $161,512.37; and Office Environments, Asheville, North Carolina - $8,656.65. These bids fully meet all specifications, terms and conditions of subject bid. A complete set of bid documents are attached hereto and made a part hereof.

Upon motion of Vice-Mayor Moore, seconded by Councilman Frank, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

A. CANCELLATION OF MEETINGS

Mayor Michalove announced that the next meeting of the Asheville City Council will be November 19, 1991. The November 5, 1991, meeting will be cancelled due to it being election day and the November 12, 1991, meeting will be cancelled due to the North Carolina League of Municipalities holding its annual meeting in Charlotte, North Carolina.

B. RESOLUTION NO. 91-183 - RESOLUTION REAPPOINTING MRS. HELEN MITCHELL TO THE ASHEVILLE BOARD OF ALCOHOLIC CONTROL FOR A THREE YEAR TERM, TERM ENDING NOVEMBER 13, 1994

Mayor Michalove read a letter from Russell Martin and Osborne Hart, both of whom are Asheville Board of Alcoholic Board Control members, asking that the City Council reappoint Mrs. Helen Mitchell for another term due to her being a tremendous asset to the Board.

Councilman Bratton moved to reappoint Mrs. Helen Mitchell to the Asheville Board of Alcoholic Control for a three year term, term ending November 13, 1994. This motion was seconded by Councilman Frank and carried unanimously.

C. MOTION AUTHORIZING THE MAYOR TO ACCEPT AN EASEMENT TO RELOCATE A STORM DRAIN ON MERRIMON AVENUE - WESTERN STEER PROPERTY

City Manager Bean said that the current owner of the property located on Merrimon Avenue (where the Western Steer was) is in the process of replacing the storm drain. He said it would be to the City's advantage to work out a cooperative arrangement with the current owner and go ahead and put in a large enough storm drain to drain that entire area. He said it would cover about 1/3 of the total cost and it would be a great savings to the City to work out that arrangement. He asked for a motion authorizing the Mayor to accept the easement. After acceptance, the City could then go out for bid and come back with a budget amendment once funds are in hand from the developer.

Vice-Mayor Moore moved to authorize the Mayor to accept an easement to relocate a storm drain on property located on Merrimon Avenue where the Western Steer was. This motion was seconded by Councilman Estes and carried unanimously.

Mayor Michalove asked the City Manager to have staff investigate the sign at the old Western Steer on Merrimon Avenue that is covered by blue plastic. He thought there was some procedure that when places close down, the signs were to be taken down, along with the poles.

D. CLAIMS

The City Manager said claims were received from William Wright (Fire Department), Brenda Ray (Water Department) and Melanie Perry (Water Department).

Mayor Michalove stated that these claims has been referred to the appropriate insurers for investigation.

VII. ADJOURNMENT

Mayor Michalove adjourned the meeting at 7:15 p.m.

William F. Wolcott
City Clerk

H. M. Michalove
Mayor

Tuesday - November 5, 1991

Regular Meeting

NO MEETING

ASHEVILLE CITY COUNCIL

ELECTION DAY

Tuesday - November 12, 1991

Regular Meeting

NO MEETING

ASHEVILLE CITY COUNCIL

NORTH CAROLINA LEAGUE OF MUNICIPALITIES MEETING

Tuesday-November 19, 1991-4:00 p.m.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor William G. Moore; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Eugene W. Ellison and William W. Estes; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott

Absent: None

INVOCATION

The invocation was given by Mayor Michalove.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the October 29, 1991, City Council meeting minutes as submitted.

RECOGNITION OF NEW CITY COUNCIL MEMBERS

Mayor Michalove was pleased to recognize Mrs. Barbara Field, Mr. Charles Worley and Mr. Chris Peterson, who were recently elected to the Asheville City Council, to take office on December 3, 1991.

NEW BUSINESS:

A. LEDFORD SUBDIVISION

Mr. Don Sherrill, Urban Planner in the Planning Department, said that this subdivision of property involves the division of two existing parcels into four lots. The property is slightly over seven areas in area and is located at the intersection of Patton Avenue and Leicester Highway. The property is owned by Robert and David Ledford. Existing businesses are located on three of the proposed lots and the site is zoned Commercial Highway and R-3 Medium Density Residential. Three of the lots are approximately one acre each and the fourth lot is slightly over four acres. Most of the fourth lot is zoned R-3 Medium Density Residential with a small portion of the lot falling within the Commercial Highway Zoning District. The fourth lot is currently vacant with no development proposed at this time.

Mr. Sherrill stated that no new streets are required for this subdivision and water and sewer services are available to the property. He said that the Planning and

Zoning Commission approved the subdivision of the Ledford property subject to the existing water and sewer lines be included on the final plat along with any required easements.

Councilman Ellison moved to approval the final plat of Ledford Subdivision subject to the existing water and sewer lines be included on the final plat along with any required easements. This motion was seconded by Vice-Mayor Moore and carried unanimously.

B. REPORT RELATIVE TO "T" INTERSECTION AT WHITE PINE DRIVE AND BRACKETTOWN ROAD

City Manager Bean briefly summarized the history of the requirement of a "T" intersection at White Pine Drive and Brackettown Road. He said that the neighborhood of Kenilworth Forest wants a "T" intersection and no widening of White Pine Drive. He stated that on August 6, 1991, the staff was requested to develop a plan for a "T" intersection at Brackettown Road and White Pine Drive without the widening of White Pine Drive and that the plan be submitted to the Kenilworth Residents Association for review prior to it being submitted to Council.

City Manager Bean stated that a field survey has been conducted and staff has now designed a rough sketch of the intersection to address safety concerns without the additional of another lane. He said that the staff has met with the Kenilworth Residents Association and the owner of the Asheville Mall to present the proposed plan to them for their review. But, due to the number of concerns expressed by the neighborhood of the staff's plan, it was suggested that the neighborhood have an engineer review it.

City Manager Bean said that an estimate of the proposed work to be done on White Pine Drive would be approximately $16,000 to $26,000 depending upon street grade improvements that would need to be done on White Pine Drive.

Upon inquiry of Councilman Ellison, City Manager Bean stated that the developer would pay for the improvements to Brackettown Road and the City would pay for the improvements to White Pine Drive.

Mr. Rendall Davis, 285 White Pine Drive, submitted an alternative plan to the City Council and stated that the residents of Kenilworth Forest were very concerned about the intersection from a safety standpoint. He felt that the City staff did not give the residents an opportunity to

comment on the plan, they just presented it and suggested that the residents hire an engineer to design their own plan. Mr. Davis went into detail of the alternate plan requested by the residents. He stated that the residents' design would virtually cost the City nothing and White Pine Drive would not have to be cut into. He feels that the developer should upgrade Brackettown Road whereby White Pine Drive would not have to be cut into.

Mr. Rick Coleman, representative of the Asheville Mall, stated that he did not have an opportunity to review the plan submitted by City staff and would like to reserve commenting on it until he has had time to study it. He felt that the engineering process that the City used to develop this plan needed to be reviewed and that this plan should not be rushed into. He stated that the Asheville Mall still offers to bear the total expense of all improvements to White Pine Drive and Brackettown Road if the original site plan presented in August was approved.

City Manager Bean stated that Mr. Coleman did, in fact, attend a meeting which consisted of the residents and the City which the City's plan was the subject of the meeting.

Councilman Ellison suggested a compromise that if the cost to improve White Pine Drive would not exceed $26,000, would the Asheville Mall pick up the whole tab of all the improvements to the intersection of White Pine Drive and Brackettown Road. Mr. Coleman preferred not commenting until an engineering study was done.

Councilman Ellison moved to adopt the plan that was put before the City Council in August for 4 lanes to be paid by the developer and no expense to the City. This motion died for a lack of a second.

Vice-Mayor Moore moved to accept the City's plan provided it meets the safety requirements and engineering design requirements and that the City pay for the improvements to White Pine Drive and the developer pay for the improvements to Brackettown Road. This motion was seconded by Councilman Ellison.

Councilman Estes pointed out the unfairness that the Council had before it only one out of three plans which had detailed engineering design on it.

Councilman Price moved to amend the earlier motion of Vice-Mayor Moore to state that in the event there is a cut to be made to White Pine Drive that the final plans and

specifications come back to the Council for further review. This motion was seconded by Councilman Frank and carried on a 6-1 vote, with Vice-Mayor Moore voting "no".

Councilman Ellison moved to postpone any action on this for 90 days and ask staff to develop a detailed set of plans and specifications on the City's plan. This motion was seconded by Councilman Estes and carried on a 6-1 vote, with Vice-Mayor Moore voting "no".

It was suggested that Mr. Davis also have the residents' plan developed on a more detailed basis.

C. RESOLUTION NO. 91-185 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF ASHEVILLE AND CORNERSTONE OF RECOVERY, INCORPORATED, FOR PREPAYMENT OF EMPLOYEE/DEPENDENT EXPENSES RELATING TO THE TREATMENT AND REHABILITATION OF DRUG AND ALCOHOL RELATED PROBLEMS

City Manager Bean stated that this is a new concept for the City which involves prepayment under the City's group medical plan of expenses relating to the treatment and rehabilitation of drug and alcohol related problems. He said this will provide significant cost savings to the City's self-insured program of group medical benefits all at no additional cost to the City or its employees.

Mr. John Miall, Director of Risk Management, stated that in the last year there were seven admissions relating to alcohol or chemical dependency at a cost to the City of $81,000 and a cost to the employees of $16,000. He stated that this agreement has an annual cost of approximately $27,000 for its first full year of operation and the savings to the City would be immediate. He said that during the initial term of this agreement, no admission for dependency-related treatments will be authorized by General Administrators until the Employee Assistance Program has had an opportunity to review the problem, the recommended course of treatment and the specifics regarding admission. Cornerstone will be offered as an option to employees and dependents going into treatment and will cost them nothing out of pocket.

Upon inquiry of Vice-Mayor Moore, Mr. Miall stated that this program is less expensive than entering into one with Blue Ridge Mental Health.

Councilman Ellison questioned how it came to be that the City would contract with a company in Tennessee and asked if the City contacted any of the agencies in Asheville

for these services. Mr. Miall stated that Cornerstone approached Asheville and he did check with five other agencies in Asheville and none were willing to contract the same services at the same low rate. Mr. Miall stated that this agreement is for only a 10-month period and at the end of that time, changes could be made. Councilman Ellison stated that he wouldn't like to see the City get into a long-term agreement with a Tennessee firm because he felt we should be giving the work to local people.

Mr. Bill Hood, Executive Director of Cornerstone, gave some detailed information about the agency to Councilmembers. He stated that there was no waiting period and that transportation would be provided if needed. He said there was a one year mandatory after-care program to be set up through Marv Rosen, Employee Assistance Provider.

Councilman Ellison stated concerns about the ability of the person to choose Cornerstone. He asked if there could be some way to make Cornerstone the sole source of treatment.

Councilman Ellison stated that he liked the concept of this program but would like to have more time to study it. He felt that the City might be able to obtain these services from somewhere in western North Carolina.

Councilman Ellison moved to postpone this item until the Council has had an opportunity to study it and to use the information presented today for informational purposes only. This motion died for a lack of a second.

Mayor Michalove said that members of Council were previously furnished copies of this resolution and it would not be read in its entirety.

Upon motion of Councilman Bratton, seconded by Vice-Mayor Moore, Resolution No. 91-185 was unanimously adopted.

RESOLUTION BOOK NO. 19 AT PAGE 29

D. RESOLUTION NO. 91-186 - RESOLUTION OF INTENT TO AUTHORIZE THE EXCHANGE OF PROPERTY WITH MURPHY-WILSON INVESTMENTS

City Attorney William Slawter said that the City of Asheville and the Airport Authority have been trying to obtain a parcel of land adjacent to the Asheville Regional Airport which is instrumental to the development and enhancement of the Airport. He said that Murphy-Wilson Investments (owner of that parcel of land) has made a

proposal to the City to provide for the fee simple conveyance of that parcel of land as partial consideration for the lease to Murphy-Wilson Investments by the City of three parcels which the City own. He stated that the three parcels to be leased would not be needed by the City for the term of their proposed lease which is a term of 40 years. Mr. Slawter outlined the rental terms of the lease. He did state, however, that the lease of a portion of the property by the City to Murphy-Wilson Investments is subject to the prior approval of the Federal Aviation Administration.

City Attorney Slawter stated that this resolution states the City Council's intent to adopt a resolution at its regular meeting on December 17, 1991, authorizing the exchange of property with Murphy-Wilson Investments upon the terms and conditions set forth in the lease.

Mayor Michalove said that members of Council were previously furnished copies of this resolution and it would not be read in its entirety.

Upon motion of Councilman Estes, seconded by Councilman Frank, Resolution No. 91-186 was unanimously adopted.

RESOLUTION BOOK NO. 19 AT PAGE 30

E. CERTIFICATE OF CANVASS OF THE BUNCOMBE COUNTY BOARD OF ELECTIONS FOR THE SPECIAL ELECTION OF THE CITY OF ASHEVILLE ON THE 5TH DAY OF NOVEMBER, 1991

City Manager Doug Bean stated that the Board of Elections has provided to the City of Asheville a Certificate of the Buncombe County Board of Elections for the Special Election of the City of Asheville on the 5th day of November, 1991, concerning approval of the bond order authorizing $26,000,000 for water system improvements. He said this Certification is presented to the Council for their use in considering a resolution which will certify and declare the results of the Special Election. The Certificate is attached to and made a part of these minutes as Appendix "A".

F. RESOLUTION NO. 91-187 - RESOLUTION CERTIFYING AND DECLARING THE RESULTS OF THE SPECIAL ELECTION OF THE BOND ORDER ENTITLED "$26,000,000 WATER BONDS" HELD IN THE CITY OF ASHEVILLE, NORTH CAROLINA, ON NOVEMBER 5, 1991

City Manager Bean said that the special election on the Water Bond Order was approved by Council Resolution of

September 17, 1991. He said this resolution certifies and declares the results of that special election and completes the necessary preliminary steps to initiate bond issuance.

Mayor Michalove said that members of Council were previously furnished copies of this resolution and it would not be read in its entirety.

Upon motion of Councilman Price, seconded by Vice-Mayor Moore, Resolution No. 91-187 was unanimously adopted.

RESOLUTION BOOK NO. 19 AT PAGE 37

G. RESOLUTION NO. 91-188 - RESOLUTION OF THE CITY OF ASHEVILLE, NORTH CAROLINA, AUTHORIZING THE NEGOTIATION OF AN INSTALLMENT PURCHASE CONTRACT, DIRECTING THE PUBLICATION OF NOTICE WITH RESPECT THERETO AND RELATED MATTERS.

City Manager Doug Bean said that the refinancing of the 1987 Parking Garage Certificates of Participation at a lower interest rate will provide about $1,000,000 in savings. He said that this resolution will also set a public hearing for December 17, 1991, and directs the City Clerk to publish the notice.

Mayor Michalove said that members of Council were previously furnished copies of this resolution and it would not be read in its entirety.

Upon motion of Vice-Mayor Moore, seconded by Councilman Frank, Resolution No. 91-188 was unanimously adopted.

RESOLUTION BOOK NO. 19 AT PAGE 40

H. BIDS FOR FIRE PUMPER FOR THE FIRE DEPARTMENT

City Manager Bean stated that nine bids were received and recommended awarding the bid to the fourth lowest bidder (which met the specifications) KME Fire Apparatus, Nesquehoning, Pennsylvania, in the amount of $157,099. A copy of the summary of the bids is attached to and made a part of these minutes as Appendix "B".

Vice-Mayor Moore moved to accept the bid of KME Fire Apparatus, Nesquehoning, Pennsylvania, in the amount of $157,099. This motion was seconded by Councilman Frank and carried unanimously.

I. ORDINANCE NO. 1953 - BUDGET ORDINANCE AMENDMENT FOR CITY HALL RENOVATION

City Manager Doug Bean said that this budget amendment is to complete the energy conservation programs and renovations project for the City Hall. He said that improvements will be made to the second floor and the appropriations include costs for construction, workstations and A & E fees.

Mayor Michalove said that members of Council were previously furnished copies of this ordinance and it would not be read in its entirety.

Vice-Mayor Moore moved for the adoption of Ordinance No. 1953. This motion was seconded by Councilman Bratton.

On a roll call vote of 7-0, Ordinance No. 1953 passed on its first and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 10

J. RESOLUTION NO. 91-189 - RESOLUTION AUTHORIZING THE CITY MANAGER OF THE CITY OF ASHEVILLE TO ENTER INTO AN AGREEMENT WITH THE BUNCOMBE COUNTY BOARD OF EDUCATION FOR THE JOINT DEVELOPMENT OF A SCHOOL/PARK COMPLEX ON PROPERTY OWNED BY THE BUNCOMBE COUNTY BOARD OF EDUCATION

City Manager Doug Bean said that there is a need for additional park and recreation facilities in the south Buncombe area, including the need for certain sports facilities and the Buncombe County Board of Education has a program of developing excellent sports and educational facilities at the Valley Springs School. This resolution would authorize the City to enter into an agreement to develop a school/park complex at Valley Springs School.

Councilman Price expressed concern about the traffic patterns in that area.

Mayor Michalove said that members of Council were previously furnished copies of this resolution and it would not be read in its entirety.

Upon motion of Councilman Estes, seconded by Councilman Price, Resolution No. 91-189 was unanimously adopted.

RESOLUTION BOOK NO. 19 AT PAGE 44

CONSENT:

A. RESOLUTION NO. 91-190 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH UNISYS CORPORATION TO PROVIDE SOFTWARE PRODUCTS AND SERVICES

SUMMARY: Information Services Division uses the Linc software products to provide automated solutions for the City of Asheville. They currently have it licensed on one of the City's mainframe computers and need to have it licensed on a second mainframe. This resolution will provide the necessary hardware and software resources for the Information Services Division to develop automated solutions in a timely fashion.

RESOLUTION BOOK NO. 19 AT PAGE 45

B. RESOLUTION NO. 91-191 - RESOLUTION CALLING FOR A PUBLIC HEARING FOR THE ADOPTION OF AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH THE DWELLING LOCATED AT 10 SUNSET SUMMIT

SUMMARY: Proceedings have been instituted in accordance with the provisions of the City of Asheville Housing Code, Section 8-29 (B) (2), as authorized by N. C. Gen. Stat. sec. 160A-443 (2). A hearing was held on September 24, 1990, and the dwelling at 10 Sunset Summit was found unfit for human habitation, and a Findings of Fact and Order was issued finding the dwelling, in its present condition, an imminent threat to life and property. The dwelling is more particularly described as: Being all of the Tax Lot 111, Ward 9, Sheet 5, as shown on the Buncombe County, City of Asheville tax maps located in the Buncombe County Courthouse in Asheville, North Carolina. Additionally, being further described as that same piece of real property conveyed to Florence Brummer from Alfred E. Butler by deed dated April 3, 1990. The owner was given 30 days from the receipt of the Order within which to demolish the dwelling. The owner has not complied with said Order in any respect and the time for doing so has expired.

This resolution sets the public hearing for December 17, 1991, at 4:00 p.m. in the Council Chamber of the City of Asheville, North Carolina.

RESOLUTION BOOK NO. 19 AT PAGE 46

Upon motion of Vice-Mayor Moore, seconded by Councilman Ellison, the consent agenda was unanimously approved.

Mrs. Barbara Field stated that an architect has contacted her regarding the possibility of purchasing 10 Sunset Summit. Mayor Michalove suggested Mrs. Field tell the architect to contact Mr. Bob Hixson, Director of Building Inspections, to let him know of the architect's proposal. Mayor Michalove said if it was a viable plan, the public hearing that is scheduled for December 17, 1991, can always be postponed on that date.

OTHER BUSINESS:

A. BUNCOMBE COUNTY DETENTION FACILITY/JAIL COMPLEX

Mr. Don Sherrill, Urban Planner in the Planning Department, said the Asheville Planning and Zoning Commission on November 6, 1991, approved the site plan for the Buncombe County Detention Facility/Jail Complex located directly behind the Buncombe County Courthouse subject to the following contingencies:

1. Variances be granted on the front setback from 35 feet to 1 foot and the rear setback from 8 feet to 3 feet.

2. Variance be granted for the required 10 foot wide landscaping strip for street trees.

3. Variance be granted for the reduction of required parking spaces from the 121 spaces to 6 spaces.

4. A variance be granted from the requirement in the parking and loading standards that states "No access or egress driveway, except for single and two family houses, shall be so arranged that vehicles can enter and leave only by backing on or across any sidewalk or to or from any street."

5. This area be rezoned from CS to CBD and that the rezoning process be carried out concurrently with

the group development process going on to City Council in the anticipation that by the time the rezoning process has been approved that this would coincide with the letting of bids in March, 1992.

Councilman Frank moved to schedule a public hearing relative to the group development plan for the Buncombe County Detention Facility/Jail Complex for December 17, 1991. This motion was seconded by Vice-Mayor Moore and carried unanimously.

B. MOTION REGARDING AIRPORT AUTHORITY

Councilman Ellison moved that the City Manager be authorized to execute an agreement and related documents providing for the sublease of property from the Asheville Regional Airport Authority to the French Broad Golf Center. This motion was seconded by Councilman Price and carried unanimously.

C. RESOLUTION NO. 91-192 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AMENDMENT TO THE SUPPLEMENTAL WATER AGREEMENT AND APPROVING AN AMENDMENT TO THE BY-LAWS OF THE ASHEVILLE-BUNCOMBE WATER AUTHORITY

Councilman Price said that the Asheville-Buncombe Water Authority has recommending to the City Council and will recommend to the Buncombe County Board of Commissioners that the membership of the Water Authority be expanded as outlined below. The reason for this request is that the Water Authority has a considerable amount of work in the next few years and due to the unique expertise of both appointees, the Water Authority has decided to use this approach.

The amendment to the Supplemental Water Agreement would:

(a) Allow the three members of the Asheville-Buncombe Water Authority appointed by the Buncombe County Board of Commissioners and the three members of the Asheville-Buncombe Water Authority appointed by the Asheville City Council to appoint two other members to the Asheville-Buncombe Water Authority, rather than one member, both of whom shall serve a three year term ending December 31, 1994 (after which membership on the Asheville-Buncombe Water Authority shall revert to seven (7) members); and

(b) Provide for the preeminence of the obligations of the City of Asheville arising pursuant to the general obligation bonds to be issued in accordance with the referendum submitted to and approved by the voters of the City of Asheville on November 5, 1991.

Mayor Michalove said that members of Council were previously furnished copies of this resolution and it would not be read in its entirety.

Upon motion of Vice-Mayor Moore, seconded by Councilman Bratton, Resolution No. 91-192 was unanimously adopted.

RESOLUTION BOOK NO. 19 AT PAGE 48

D. RESOLUTION NO. 91-184 - RESOLUTION HONORING THE UNC-A WOMEN'S VOLLEYBALL TEAM FOR WINNING THE 1991 BIG SOUTH VOLLEYBALL CHAMPIONSHIP

City Manager Doug Bean said that the Asheville City Council wishes to recognize the UNC-A Women's Volleyball Team for winning the 1991 Big South Volleyball Championship.

Mayor Michalove said that members of Council were previously furnished copies of this resolution and it would not be read in its entirety.

Upon motion of Vice-Mayor Moore, seconded by Councilman Bratton, Resolution No. 91-184 was unanimously adopted.

RESOLUTION BOOK NO. 19 AT PAGE 28

E. COMMENTS BY COUNCILMAN ELLISON

Councilman Ellison expressed his regret of losing many years of experience as the new City Council will be taking office on December 3, 1991. He said the outgoing Council members have made substantial accomplishments and stated that he will miss all members leaving the Council.

F. COMMENTS BY COUNCILMAN ESTES

Councilman Estes stated how much he enjoyed the past two years as being a member of the City Council and offered his support and help to the new Council members taking office in December. He felt that the City Council are good people giving their time and knowledge so that others can have a better lifestyle. He thanked the Council members and the public for letting him serve.

G. NO CITY COUNCIL MEETING ON NOVEMBER 26, 1991

Mayor Michalove stated that the Asheville City Council would not be holding a meeting on November 26, 1991, due to the Thanksgiving holiday.

H. CLAIMS

City Manager Doug Bean stated that the following claims were received by the City of Asheville for the week of October 21 - 25, 1991: Beverly Gaines (Water), Sharon Rakityan (Police), Jerry Grant (Bele Chere), Shannon Davis (Fire), Billie Rustin (Water) and Roy V. Thomas (Parks).

Mr. Bean also stated that the following claims were received for the week of October 28 - November 1, 1991: Larry Hall (Water), Cody Tipton (Water) and Michael Calloway (Sanitation).

Mr. Bean finally stated that the following claims were received for the week of November 4 - 8, 1991: Mrs. Charles Buckner (Streets), Mrs. Wayne Stone (Water), James Murphy (Parks), Deborah Maney (Water) and Donald DeAndrea (Streets).

He said that all of the above claims have been referred to the appropriate insurers for investigation.

I. PRESENTATION OF THE CERTIFICATE OF ELECTION FOR THE NOVEMBER 5, 1991, MUNICIPAL ELECTION

City Clerk William F. Wolcott, Jr., presented the City Council with the Certificate of Election from the Buncombe County Board of Elections for the municipal election conducted on November 5, 1991. A copy of the Certificate is attached to and made a part of these minutes as Appendix "C".

Mayor Michalove adjourned the meeting at 6:45 p.m.

William F. Wolcott, Jr.
City Clerk

H. M. Michalove
Mayor

Appendix "A"

CERTIFICATE OF CANVASS OF THE
BUNCOMBE COUNTY BOARD OF ELECTIONS
FOR THE SPECIAL ELECTION OF THE
CITY OF ASHEVILLE ON THE 5TH DAY OF NOVEMBER, 1991

WE, the undersigned Chairman and Members of the Buncombe County Board of Elections, DO HEREBY CERTIFY that we met on November 7, 1991 at the hour of eleven o'clock, a.m., in the office of the Board of Elections in Asheville, North Carolina to canvass the returns of the special election held in the City of Asheville on November 5, 1991.

1. The total number of voters who voted "YES" in answer to the question, "SHALL the order authorizing $26,000,000 of bonds secured by a pledge of the faith and credit of the City of Asheville to pay capital costs of acquiring and constructing certain improvements to the water system of the City (including the acquisition of land or rights-in-land required therefor, but excluding construction of any water treatment plant relating to a new water source other than one for industrial process water treatment), and a tax to be levied for the payment thereof be approved?", was 6,124. The total number of voters who voted "NO" in answer to such question was 1,864.

2. All persons voting at said election were required to use ballots or ballot labels setting forth the question to be voted upon in the form prescribed by the City Council of the City of Asheville.

3. Only the persons who has been duly registered were permitted to vote at said election. The total number of voters who were registered and qualified to vote at said election was 38,717.

4. The polls for said election were opened at the polling places in Asheville, North Carolina on November 5, 1991, at the hour of 6:30 o'clock, a.m., and were closed at the hour of 7:30 o'clock, p.m. on that day.

IN WITNESS WHEREOF, we have set our hands for the purpose of certifying the result of the special election held for the City of Asheville on November 5, 1991 to the City Council of said City, this 7th day of November, 1991.

Jack C. Hall, Chairman

Juanita Ratcliff, Secretary

Grover C. Mooneyham, Member

BID SUMMARY
BID REQUEST NO. 386-92

CITY OF ASHEVILLE
PURCHASING DIVISION

BID OPENED: TUESDAY, SEPTEMBER 24, 1991 3:00 P.M.

FIRE PUMPER FOR THE FIRE DEPARTMENT

	EMERGENCY EQUIPMENT INC. RALEIGH, N. C.	* EMERGENCY EQUIPMENT INC. RALEIGH, N. C.	KME FIRE APPARATUS NESQUEHONING, PA.	* KME FIRE APPARATUS NESQUEHONING, PA.
CAB & CHASSIS				
MAKE:	International	Spartan	KME Fire Apparatus	KME Fire Apparatus
MODEL:	2574	Series 90 Diamond	Renegade SFD	Navistar 4900
YEAR:	1992	1992	1992	1991
BODY				
MAKE:	Emergency Equipment Inc.	Emergency Equipment Inc.	KME Fire Apparatus	KME Fire Apparatus
MODEL:	Class A Pumper	Class A Pumper	Terminator 138	Terminator
BASE BID:	$136,819.93	$150,440.93	$143,114.00	$123,000.00
**1 LOT OPTIONS AS SPEC.	$9,844.40	$9,844.40	$13,985.00	$7,400.00 (ALL OPTIONS NOT AVAILABLE)
TOTAL BID WITH OPTIONS:	$146,664.33	$160,285.33	$157,099.00	$130,400.00
TERMS:	Net 30	Net 30	Net 30	Net 30
DELIVERY:	180 - 210 Calendar Days	240 - 270 Calendar Days	240 - 310 Working Days	60 - 90 Working Days This unit completely built and subject to prior sale
BID DEPOSIT:	5% Bid Bond	5% Bid Bond	5% Bid Bond	5% Bid Bond

*Denotes an alternate bid.

Appendix "B"

BID SUMMARY
BID REQUEST NO. 386-92

CITY OF ASHEVILLE
PURCHASING DIVISION

BID OPENED: TUESDAY, SEPTEMBER 24, 1991 3:00 P.M.

FIRE PUMPER FOR THE FIRE DEPARTMENT

	CENTRAL STATES FIRE APPARATUS LYONS, S.D.	GRUMMAN EMERGENCY PRODUCTS KERNERSVILLE, N. C.	* GRUMMAN EMERGENCY PRODUCTS KERNERSVILLE, N. C.	BECK FIRE APPARATUS CLOVERDALE, CA.
CAB & CHASSIS				
MAKE:	Spartan	Grumman	International	Ottawa
MODEL:	Diamond SFD Tilt Cab	Tilt Cab Panther	4 Door	OFC-184
YEAR:	1992	1992	1992	1991
BODY				
MAKE:	Central States	Grumman	Grumman	Beck Fire Apparatus
MODEL:	CP-12575	F-15	F-15	Madera C-118
BASE BID:	$150,939.00	$156,510.00	$141,510.00	$176,435.00
#1 LOT OPTIONS AS SPEC.	$9,850.00	$12,588.00	$12,588.00	$12,792.00
TOTAL BID WITH OPTIONS:	$160,789.00	$169,098.00	$154,098.00	$189,227.00
TERMS:	Net 30	Net 30	Net 30	Net 30
DELIVERY:	320 Calendar Days	120 - 140 Working Days	120 - 140 Working Days	240 - 270 Working Days
BID DEPOSIT:	5% Bid Bond	5% Bid Bond	5% Bid Bond	5% Bid Bond

*Denotes an alternate bid.

BID SUMMARY
BID REQUEST NO. 386-92

CITY OF ASHEVILLE
PURCHASING DIVISION

BID OPENED: TUESDAY, SEPTEMBER 24, 1991 3:00 P.M.

FIRE PUMPER FOR THE FIRE DEPARTMENT

	SPARTAN FIRE & EMERGENCY APPARATUS INC. SPARTANBURG, S. C.
CAB & CHASSIS	
MAKE:	Pierce Manufacturing Inc.
MODEL:	Javelin
YEAR:	1990
BODY	
MAKE:	Pierce Manufacturing Inc.
MODEL:	JAV-G
BASE BID:	$188,357.00
**1 LOT OPTIONS AS SPEC.	$4,347.00 (ALL OPTIONS NOT AVAILABLE)
TOTAL BID WITH OPTIONS:	$192,704.00
TERMS:	Net 30
DELIVERY:	15 Working Days
BID DEPOSIT:	5% Bid Bond

Bid returned, no bid deposit: American Fire Apparatus, Ball Ground, Georgia

*Denotes an alternate bid.

**OPTIONS: Some of the options included in our specifications are standard production items in some of the fire pumpers bid. Therefore, cost of options do not remain constant when comparing various production/manufacturers.
OPTIONS INCLUDE: (2) Floodlights; A/C Converter; Hydraulic Ladder Rack; (4) SCBA Bottle Compartments; and (1) Master Stream

Appendix "C"

STATE OF NORTH CAROLINA - BUNCOMBE COUNTY -
GENERAL ELECTION, CITY OF ASHEVILLE,
NOVEMBER 5, 1991

The County Board of Elections for said County, having opened, canvassed and judicially determined the original returns of the General Election, City of Asheville, in the several precincts in this city, held as above stated, we do certify that the above is a true abstract hereof, and contains the number of legal votes cast in each precinct, according to the returns made to said Board, for the General Election.

This 7th day of November, 1991

IN TESTIMONY WHEREOF, I hereunto set my hand and affixed my notorial seal, this 7th day of November, 1991.

Melinda Brown Garrett
(SEAL)

My Commission Expires 1-7-25-96

Jack E. Ball
(CHAIRMAN)

Juanita M. Ratcliff
(SECRETARY)

Brewer C. Mooneyham
(MEMBER)

BUNCOMBE COUNTY BOARD OF ELECTIONS

MAYOR AND CITY COUNCIL

GENERAL ELECTION - NOVEMBER 5, 1991

ABSTRACT OF VOTES, CAST AT THE GENERAL ELECTION, HELD FOR MAYOR AND CITY COUNCILMAN, CITY OF ASHEVILLE, NOVEMBER 5, 1991, IN THE COUNTY OF BUNCOMBE, NORTH CAROLINA, AT PLACES APPOINTED BY LAW FOR HOLDING GENERAL ELECTIONS IN SAID COUNTY.

PRECINCTS 1 THROUGH 22	FOR MAYOR	FOR CITY COUNCIL								
	KEN MICHALOVE	EUGENE W. ELLISON	BARBARA FIELD	BILL MOORE	CHRIS J. PETERSON	NORMA T. PRICE	CHARLES R. WORLEY	CARR SWICEGOOD	BILL MOORE - (MAYOR - WRITE-IN) PAUL H REYNOLDS - CITY COUNCIL	
	D	D	D	D	D	D	D	R		
ASHEVILLE #1	134	169	150	145	138	139	149	94		
ASHEVILLE #2	222	312	296	272	219	262	243	112		
ASHEVILLE #3	198	239	252	242	217	226	237	155		
ASHEVILLE #4	544	549	639	624	459	531	603	463	3	4
ASHEVILLE #5	648	568	692	671	527	576	707	575	3	4
ASHEVILLE #6	434	513	525	531	538	403	603	554	1	2
ASHEVILLE #7	333	350	379	399	293	329	355	266	1	2
ASHEVILLE #8	283	370	339	317	316	288	352	246		
ASHEVILLE #9	168	242	245	245	242	178	282	263	1	1
ASHEVILLE #10	143	187	160	159	148	149	148	49		
ASHEVILLE #11	108	149	114	107	108	109	98	44		
ASHEVILLE #12	104	142	120	110	167	106	171	132		
ASHEVILLE #13	113	153	152	146	154	126	181	142		
ASHEVILLE #14	153	202	185	193	188	158	229	171		
ASHEVILLE #15	417	496	531	502	531	446	609	538		
ASHEVILLE #16	269	336	341	317	335	254	464	366		
ASHEVILLE #17	346	304	378	355	301	342	355	309		
ASHEVILLE #18	187	229	266	253	231	196	297	309		
ASHEVILLE #19	267	277	360	310	328	260	369	385		
ASHEVILLE #20	88	109	106	94	95	67	99	90		
ASHEVILLE #21	212	294	322	302	287	200	330	283		
ASHEVILLE #22	288	309	357	326	326	261	395	369		
ABSENTEES	63	51	62	54	58	53	60	53		
ELECTION DAY TRANSFERS	38	33	38	41	31	36	41	36		
TOTALS	5760	6583	7019	6715	6227	5658	7315	6149		

Tuesday - December 3, 1991 - 4:00 p.m.

ORGANIZATIONAL SESSION:

Mayor-elect Kenneth M. Michalove welcomed everyone to the organizational session and introduced Reverend Ivory Hunter who gave the invocation.

The Honorable Robert D. Lewis, Senior Resident Superior Court Judge, administered the Oath of Office to the following:

Mayor Kenneth M. Michalove
Councilman Eugene W. Ellison
Councilman Barbara Field
Councilman William G. Moore
Councilman Chris J. Peterson
Councilman Joseph Carr Swicegood
Councilman Charles R. Worley

RESOLUTION NO. 91-194 - RESOLUTION OF APPRECIATION FOR COUNCILWOMAN WILHELMINA B. BRATTON

Mayor Michalove read the resolution.

Upon motion of Councilman Moore, seconded by Councilman Ellison, Resolution No. 91-194 was unanimously adopted.

Due to the absence of Mrs. Bratton, Mayor Michalove stated that we would send to her the resolution, a plaque and her name plate.

RESOLUTION BOOK NO. 19 AT PAGE 51

RESOLUTION NO. 91-195 - RESOLUTION OF APPRECIATION FOR COUNCILMAN WILLIAM W. ESTES

Mayor Michalove read the resolution.

Upon motion of Councilman Moore, seconded by Councilman Ellison, Resolution No. 91-195 was unanimously adopted.

Mayor Michalove presented Councilman Estes with the resolution, a plaque and his name plate.

RESOLUTION BOOK NO. 19 AT PAGE 55

RESOLUTION NO. 91-193 - RESOLUTION OF APPRECIATION FOR COUNCILWOMAN MARY LLOYD FRANK

Mayor Michalove read the resolution.

Upon motion of Councilman Moore, seconded by Councilman Ellison, Resolution No. 91-193 was unanimously adopted.

Mayor Michalove presented Councilwoman Frank with the resolution, a plaque and her name plate.

RESOLUTION BOOK NO. 19 AT PAGE 50

RESOLUTION NO. 91-196 - RESOLUTION OF APPRECIATION FOR COUNCILWOMAN NORMA T. PRICE

Mayor Michalove read the resolution.

Upon motion of Councilman Moore, seconded by Councilman Ellison, Resolution No. 91-196 was unanimously adopted.

Mayor Michalove presented Councilwoman Price with the resolution, a plaque and her name plate.

RESOLUTION BOOK NO. 19 AT PAGE 53

ELECTION OF VICE-MAYOR

Councilman Moore nominated Councilman Ellison as Vice-Mayor of the City of Asheville.

Councilman Worley moved that the nominations be closed. This motion was seconded by Councilwoman Field and carried unanimously.

On a voice vote, Councilman Ellison was unanimously elected as Vice-Mayor.

Mayor Michalove announced that a recess would be held for approximately 10 minutes, after which time the regular meeting would be held.

REGULAR SESSION:

INVOCATION

The invocation was given by Mayor Michalove.

APPROVAL OF THE MINUTES

The minutes of the November 19, 1991, City Council meeting were approved.

PROCLAMATIONS:

A. PRESENTATION OF CERTIFICATE OF ACHIEVEMENT TO TONY LEWIS, CITY MANAGER INTERN

City Manager Bean presented a Certificate of Achievement to Tony Lewis, who was the City Manager Intern for the last quarter.

B. PROCLAMATION PROCLAIMING DECEMBER 1, 1991, AS "WORLD AIDS DAY"

Mayor Michalove proclaimed December 1, 1991, as "World Aids Day" and presented the proclamation to Ms. Ann Beidleman.

Ms. Beidleman outlined some events that took place on December 1 and thanked the Council members for their support.

C. "FIRST NIGHT ASHEVILLE" INFORMATION

Mayor Michalove outlined some events that would be taking place during "First Night Asheville."

II. PUBLIC HEARINGS: None

III. OLD BUSINESS: None

IV. NEW BUSINESS:

A. SCHEDULING OF A PUBLIC HEARING TO CONSIDER THE ADOPTION OF AN ORDINANCE DESIGNATING THE PROPERTY KNOWN AS THE VON RUCK HOUSE AS A LOCAL HISTORIC LANDMARK

Councilwoman Field moved to schedule a public hearing on December 17, 1991, to consider the adoption of an ordinance designating the property known as the Von Ruck House and located at 52 Albemarle Place as a local historic landmark. This motion was seconded by Councilman Moore and carried unanimously.

Vice-Mayor Ellison requested information on the amount of taxes the City would be losing if this property was designated as a local historic landmark.

B. APPROVAL OF THE FINAL PLAT FOR PHASE III OF THE FOREST LAKE SUBDIVISION LOCATED ON ROCK HILL ROAD

Mr. Gerald Green, Senior Planner in the Planning Department, said that on February 14, 1990, the Asheville Planning and Zoning Commission granted preliminary plat approval for Forest Lake Subdivision, a 135 lot development located on Rock Hill Road. He said the Commission recommended approval of variances to permit a cul-de-sac right-of-way radius of 45 feet (rather than 50 feet) and to permit street grades in excess of 12%. The City Council granted these variances on March 13, 1990.

Mr. Green said that the final plat for Phase I (13 lots) was approved by the City Council on April 10, 1990, and for Phase II (21 lots) on July 17, 1990.

Mr. Green stated that on October 2, 1991, the Asheville Planning and Zoning Commission reaffirmed its February, 1990, approval of the preliminary plat since the one year period of validity for the plat and variances approval had expired. He said they recommended approval of the requested variances/modifications. The requested variances/modifications were:

1. Permit a right-of-way radius of 45 feet at the cul-de-sac turnaround; and

2. Permit a section of road approximately 150 feet in length to have a grade of 17% and a section of road approximately 130 feet in length to have a grade of 18%.

Mr. Green said that the final plat for Phase III (11 lots) was approved by the City Council on October 29, 1991. He said the developers have submitted a final plat for Phase III-B (36 lots) to the Planning Department for review and approval. The final plat for Phase III-B complies with the City of Asheville's subdivision regulations. This section of the subdivision is located outside the City limits in the City's extraterritorial jurisdiction and therefore, improvements (streets, water, sewer, etc.) do not have to be constructed prior to final plat approval.

Councilman Moore moved to approve the final plat for Phase III of the Forest Lake Subdivision. This motion was seconded by Councilman Worley and carried unanimously.

C. ORDINANCE NO. 1954 - BUDGET AMENDMENT TO APPROPRIATE FUNDS FOR THE RENTAL REHABILITATION PROGRAM

City Manager Bean stated that the City has received funding approval of $72,000 from HUD for the Rental Rehabilitation Program. He said the Program is administered under contract by the Housing Authority. He said all grant funds are used for deferred payment loans to investors/owners of substandard rental property and that the loan proceeds must be matched by private funding commitment to complete the rehabilitation.

City Manager Bean said that this Program has provided $562,944 for 50 loans since inception of the program in 1985.

Councilman Moore moved for the adoption of Ordinance No. 1954. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, Ordinance No. 1954 passed on its first and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 12

V. CONSENT: None

VI. OTHER BUSINESS:

A. RESOLUTION NO. 91-197 - RESOLUTION ENCOURAGING THE BUNCOMBE COUNTY BOARD OF COMMISSIONERS NOT TO SITE A LANDFILL ON THE PROPERTY LOCATED NORTH OF LONG SHOALS ROAD AND WEST OF OVERLOOK ROAD ON THE BILTMORE ESTATE PROPERTY

Mayor Michalove read the resolution stating that the City Council strongly requests the Buncombe County Commissioners to eliminate from consideration for the Buncombe County landfill the site identified at the intersection of Long Shoals Road and I-26. He said this site is in close proximity of two schools, a potential water treatment plant and is a prime location for future economic development opportunities.

Upon motion of Councilman Moore, seconded by Councilman Ellison, Resolution No. 91-197 was unanimously adopted.

Councilman Ellison moved that the Mayor send this resolution to the County Commissioners. This motion was seconded by Councilman Moore and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 54

B. COMMENTS BY RALPH BISHOP

Mr. Ralph Bishop read some information to the City Council relative to the provisions regarding availability of City Council minutes. He also expressed concern on the time limitations for speaking set for him.

Mayor Michalove and Councilman Moore asked to be excused from the meeting at 5:20 p.m.

C. COMMENTS BY MIKE SUMMEY

Mr. Mike Summey challenged the City Council for Asheville to be a growth City or not a growth City.

D. CLAIMS

City Manager Bean stated that the following claim was received by the City for November 11-15, 1991: Sarah Hughes (Civic Center).

City Manager Bean also stated that the following claims were received by the City for November 18-22, 1991: Gregory Patton (Water); Neise Tucker (Water); Southern Bell (Water); Joyce Coffey (Sanitation); and Jean Keen (Sanitation).

City Manager Bean finally stated that the following claims were received by the City for November 25-29, 1991: Phillip Fisher (Water); and Patrick K. Jackson (Police).

City Manager Bean stated that the above claims have been referred to the appropriate insurers for investigation.

VII. ADJOURNMENT

Vice-Mayor Ellison adjourned the meeting at 5:30 p.m.

Marcia D. Wolcott
City Clerk

W. M. Michalove
Mayor

Tuesday - December 10, 1991 - 4:00 p.m.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Worley.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the December 3, 1991, organization meeting minutes and also the December 3, 1991, regular meeting minutes.

I. PROCLAMATION

A. PROCLAMATION PROCLAIMING DECEMBER 15, 1991, AS "DELTA AIR LINES DAY"

Mayor Michalove read the proclamation proclaiming December 15, 1991, as "Delta Air Lines Day" and presented it to Mr. Gary Thrailkill.

Mr. Trailkill passed out information relative to Delta Air Lines and thanked the City Council for its support.

B. PRESENTATION BY REBECCA GILBART, CHAIRMAN OF "FIRST NIGHT ASHEVILLE"

Ms. Rebecca Gilbart, Chairman of "First Night Asheville" passed out information to the Council and stated that "First Night Asheville" is a non-alcoholic celebration which is oriented toward families. She said it will be held on December 31, 1991, starting at 6:00 p.m. on South Pack Square and ending at Midnight with fireworks.

Ms. Tina McGuire, Co-Chairman of "First Night Asheville", outlined the schedule of events which contained a wide variety of entertainment.

C. REPORT RELATIVE TO THE UNITED WAY CAMPAIGN

City Manager Bean stated that the City of Asheville employees not only reached their goal of $58,000, but

increased last year's goal by 30% more for a total of $68,000! He boasted that the City of Asheville is now the 5th highest employee giving unit and stated how proud he was of the City employees.

City Manager Bean stated that Robert Griffin from the Asheville Fire Department was the loaned executive for this year's campaign and commended him, the co-chairmen, and all the coordinators of each department for all their work to achieve this outstanding goal.

Mr. George Pfeiffer, Executive Director of the United Way, also spoke very highly of the City's goal and stated that the average give per employee was $80.00.

II. PUBLIC HEARINGS: None

III. OLD BUSINESS: None

IV. NEW BUSINESS

A. **RESOLUTION NO. 91-198 - RESOLUTION AUTHORIZING THE PURCHASE DIRECTOR TO DISPOSE OF PERSONAL PROPERTY BY PRIVATE SALE**

Mr. Charles Penny, Assistant City Manager, said that the Police Department currently has three old tripod mounted machine guns and one old submachine gun which are of little value to the Department. He said the Department wishes to sell these old weapons and use the proceeds to purchase new weapons for their Emergency Response Team.

Mayor Michalove said that members of Council were previously furnished copies of this resolution and it would not be read in its entirety.

Upon motion of Councilman Moore, seconded by Councilman Worley, Resolution No. 91-198 was unanimously adopted.

RESOLUTION BOOK NO. 19 AT PAGE 55

B. **BIDS FOR ONE SIDE-LOADING REFUSE COLLECTION VEHICLE FOR THE PUBLIC WORKS DEPARTMENT**

Mr. Charles Penny, Assistant City Manager, stated that one bid and six no bids were received for the purchase of one side-loading refuse collection vehicle with 20 cubic yard capacity for the Public Works Department. He said the reason that only one bid was actually received was because the other six bidders could not comply with the City's specification for the high density compaction. He

recommended awarding the bid to Lodel-South, Inc., Rockingham, North Carolina, for a 1992 'Lodal' model Evo-Mag-20-TS side-loading refuse collection vehicle in the amount of $102,321. He stated that money has been budgeted in the Capital Improvement Plan and the purchase of this side-loader will reduce the number of people to man a regular collection vehicle from 3 to 2.

Upon inquiry of Vice-Mayor Ellison, Mr. Penny stated that it would cost almost as much money to lease the vehicle as it would be to purchase one.

Upon inquiry of Councilman Peterson relative to the surplus vehicles, Mr. Penny explained the City's surplus sale that is held one a year.

Councilman Moore moved to accept the bid of Lodel-South, Inc., Rockingham, North Carolina, for a 1992 'Lodal' model Evo-Mag-20-TS side-loading refuse collection vehicle in the amount of $102,321. This motion was seconded by Vice-Mayor Ellison and carried unanimously. A copy of the summary of the bids is attached to and made a part of these minutes as Appendix "A".

C. **BIDS REGARDING THE AWARD OF A CONSTRUCTION CONTRACT FOR STORM DRAINAGE IMPROVEMENTS ON WEST CHAPEL CIRCLE**

RESOLUTION NO. 91-199 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A CONTRACT WITH WHEELER CONSTRUCTION COMPANY, INC., FOR THE PROJECT KNOWN AS WEST CHAPEL CIRCLE STORM DRAINAGE PROJECT

Mr. Charles Penny, Assistant City Manager, said that bids for the construction of the West Chapel Circle Storm Drainage Project were first received on October 1, 1991, but fewer than three bids were received. He said the project was readvertised and bids were again received on October 18, 1991. He said the City Council rejected all bids received on October 18, 1991, due to the bids exceeding the funds available for the project. Therefore, the project was again advertised and bids were received on November 22, 1991. He said the Department of Water and Engineering has received these most recent bids and has recommended that the bid for the work be awarded to Wheeler Construction Company, Inc., as the lowest responsible bidder, in the amount of $41,433. He said that funds are available in the Community Development Block Grant Fund.

Upon inquiry of Councilman Peterson, Mr. Penny stated that this project would help one house and a trailer park consisting of approximately 10-12 trailers..

Mayor Michalove said that members of Council were previously furnished copies of this resolution and it would not be read in its entirety.

Upon motion of Vice-Mayor Ellison, seconded by Councilwoman Field, Resolution No. 91-199 was unanimously adopted.

RESOLUTION BOOK NO. 19 AT PAGE 56

V. CONSENT: None

VI. OTHER BUSINESS

A. ANNOUNCEMENT OF APPOINTMENT TO THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE

Mayor Michalove announced the appointment of Mrs. Peggy Cook, Vice-President of Nursing at St. Joseph's Hospital, to serve as a member of the Housing Authority of the City of Asheville, term to expire on June 11, 1995.

B. POLICY ON TIME LIMITATIONS FOR SPEAKERS

Mayor Michalove asked the Council to consider broadening the City Council policy as it relates to individuals who would like to be heard in the Council meetings. He said normally the Council follows the policy that if it is an agenda item, particularly if it's a public hearing, the Council permits the key spokesman for the group on the issue to have 10 minutes to speak and then limits the comments from further members of the audience on the same topic to 3 minutes. He would like to broaden that policy for all matters coming before the Council - not only for printed agenda items, but for other business items, that we limit the comments to 3 minutes for individuals and 10 minutes for spokespersons for groups. In addition, if an individual cannot complete what they have to say within those time limits, the Council will gladly receive written information as it pertains to their particular interest or request. Councilwoman Field made a motion that the City Council Rules of Procedure be amended to so provide. Councilman Moore seconded the motion and it carried unanimously.

C. GROUP DEVELOPMENTS

Mr. Don Sherrill, Urban Planner, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. He said in accordance with

this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. He said the following actions were taken by the Planning and Zoning Commission on December 4, 1991.

1. ASHEVILLE SCHOOL DINING HALL/STUDENT CENTER

Mr. Sherrill said that this group development request involves the construction of a new 26,000 sq. ft. dining hall/student center facility for the Asheville School. Asheville School is located on Asheville School Road off U. S. 19/23 in West Asheville. The site lies within the City's Office Institutional Zoning District. The dining hall/student center facility will replace an existing building that will be demolished. The new building will be three stories in height.

He said the project meets all of the City's zoning requirements. Water, sewer and fire protection services are available to the site. The proposal includes a new service entrance from U. S. 19/23 to the dining hall. The new driveway entrance will be used only as a service entrance to the new building. Existing trees provide excellent buffering from the neighboring properties. The erosion control plan has been reviewed and approved by the City Erosion Control staff.

He said the Planning Department received a number of calls from neighboring residents inquiring about the project prior to the Planning and Zoning meeting. After receiving information about the development proposal, the residents expressed no opposition to the project. No public comment was voiced at the Planning and Zoning meeting.

He said that at their December 4, 1991 meeting, the Asheville Planning and Zoning Commission voted to recommend approval of the group development request subject to the Developer receiving approval by the City and the North Carolina Department of Transportation for the proposed driveway entrance.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

2. NEW FEDERAL BUILDING IN DOWNTOWN ASHEVILLE

Mr. Sherrill said this group development request is a proposal to construct a new Federal Building in downtown Asheville. The proposal has been submitted by the General

Services Administration. The project involves the construction of a six-story, 264,000 square foot office building at the intersection of Patton Avenue and North French Broad Avenue. The proposed building would contain offices and storage space that are currently located in the Grove Arcade.

He said the site is 3.5 acres in area and lies within the City's Central Business District (CBD) and the City's Downtown Design Review area. City Council previously adopted a resolution for the closing of Post Street between North French Broad Avenue and Otis Street.

He said the development standards for the Central Business District do not require building setbacks. The CBD is exempt from the parking requirements contained in the City's Zoning Ordinance, however, the plans include a parking area containing 151 spaces. The parking area is elevated from North French Broad Avenue. Driveway entrances will be located off N. French Broad Avenue and Otis Street. The loading and service areas are to be located under the parking area and would be accessed from N. French Broad.

He said the landscaping plans submitted include 41 street trees along Patton Avenue, North French Broad Avenue, and Otis Street. The parking area includes 23 parking lot trees to be located within an island directly behind the proposed building. Trees will also be planted within a plaza area to be located at the intersection of Patton Avenue and Otis Street. Trees will be used to screen the parking area from the back of the old post office building that is located along Otis Street.

He said the Metropolitan Sewerage District has approved the requested allocation for sanitary sewer services. An application for letter of commitment for water availability is in process. Adequate fire protection is available to the site. The proposed building will contain a sprinkler system. The proposed driveway entrances have been approved by the City Public Works Department.

He said that at their December 4, 1991 meeting the Planning and Zoning Commission voted to approve the Downtown Design Review request and the group development request subject to the future design of the two public spaces located at the corner of North French Broad Avenue and Patton Avenue and also within the plaza area at the corner of Patton Avenue and Otis Street, to be reviewed by staff.

He also said that the Commission voted to recommend approval of the group development request subject to the following three contingencies:

1. GSA work out a right-of-way encroachment agreement with the City of Asheville for the placement of steps in the right-of-way along Patton Avenue;

2. Approval of letter of commitment for water availability by the Asheville Water Authority; and

3. GSA continue to work with the City staff as plans are finalized to achieve consistency with the City Streetscape Plans along with planned improvements scheduled for Patton Avenue.

Mayor Michalove said that because this is a major project in the downtown area, a public hearing might be appropriate.

Councilwoman Field moved to schedule a public hearing relative to the group development of the new Federal Building in downtown Asheville for January 21, 1992, at 5:00 p.m. This motion was seconded by Councilman Worley and carried unanimously.

3. MEMORIAL MISSION EAST BUILDING EXPANSION AND HEART CENTER

Mr. Sherrill said this group development proposal involves two large scale additions to Memorial Mission Hospital.

He said the East Building Expansion is an 85,624 sq. ft. addition between the main building and the east parking deck (currently under construction). This addition will contain one floor below grade and three floors above grade.

He said the Heart Center is a 90,144 sq. ft. addition to be located on the north side of the main building. The Heart Center will contain four floors above grade.

He said the Memorial Mission Campus is located within the City's Office Institutional Zoning District. The two additions proposed meet all setback, parking, and landscaping requirements. No new driveway entrances are proposed.

He said that a letter of commitment for water availability has been approved. A letter of commitment for sanitary sewer allocation has been requested from the Metropolitan Sewerage District. The request is being reviewed by the MSD staff. Adequate fire protection is available to the site.

He stated that at their December 4, 1991 meeting, the Asheville Planning and Zoning Commission voted to recommend approval of the group development request for the East Building Expansion and the Heart Center subject to approval of sewer allocation by the Metropolitan Sewerage District.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

D. COMMENTS BY RALPH BISHOP

Mr. Ralph Bishop expressed his disappointment on the time limitation for addressing the Council.

VII. ADJOURNMENT

Mayor Michalove adjourned the meeting at 5:30 p.m.

William F. Walcott
CITY CLERK

W. M. Michalove
MAYOR

BID SUMMARY

CITY OF ASHEVILLE
PURCHASING DIVISION BID OPENED: FRIDAY, OCTOBER 21, 1991

ONE SIDE LOADING REFUSE COLLECTION VEHICLE FOR
PUBLIC DEPARTMENT, SANITATION DIVISION

	LODAL-SOUTH, INC. ROCKINGHAM, N. C.
ITEM #A: 1 SIDE LOADING REFUSE COLLECTION VEHCILE	
CAB & CHASSIS	
MAKE:	Lodal
MODEL:	Evo-Mag-20-TS
YEAR:	1992
TOTAL COST:	$102,321.00
TERMS:	1/2%/10 - Net 30
DELIVERY:	90 - 120 Days A.R.O.
BID DEPOSIT:	5% Bid Bond

Appendix "A"

The following companies submitted a 'No Bid': Cavalier Equipment Corporation, Roanoke, Virginia; Able Body Company Inc., Newark, California; McNeilus Truck and Manufacturing Company, Douglasville, Georgia; Scranton Manufacturing Company, Inc., Scranton, Iowa; Amick Equipment, Lexington, South Carolina; and Allwaste Equipment Company, W. Columbia, South Carolina.

Tuesday - December 17, 1991 - 4:00 p.m.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Deputy City Clerk Charles W. Penny.

Absent: Associate City Manager/City Clerk William F. Wolcott Jr.

INVOCATION

The invocation as given by Councilman Moore.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the December 10, 1991, meeting minutes.

I. PROCLAMATIONS:

A. RESOLUTION NO. 91-200 - RESOLUTION SUPPORTING DRUNK DRIVING PREVENTION PROGRAMS

Mayor Michalove read the resolution and stated that at the National League of Cities meeting held in Las Vegas, Nevada, last week, Councilman Peterson did a video supporting drunk driving prevention programs.

Upon motion of Councilwoman Field, seconded by Vice-Mayor Ellison, Resolution No. 91-200 was unanimously adopted.

RESOLUTION BOOK NO. 19 AT PAGE 57

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO THE DESIGNATION OF PROPERTY KNOWN AS THE VON RUCK HOUSE AND LOCATED AT 52 ALBEMARLE PLACE AS A LOCAL HISTORIC LANDMARK.

ORDINANCE NO. 1955 - AN ORDINANCE DESIGNATING PROPERTY KNOWN AS THE VON RUCK HOUSE AND LOCATED AT 52 ALBEMARLE PLACE AS A LOCAL HISTORIC LANDMARK.

Mayor Michalove opened the public hearing at 4:09 p.m.

The Deputy City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Mr. Kent Newell, Director of the Historic Resources Commission, said that the Karl Von Ruck House is a contributing property to the Chestnut-Hill National Register and represents significant high-style architectural forms constructed at the turn of the 20th Century. It was the home of a nationally and internationally known pioneer in pulmonary medicine who aided in the establishment of Asheville as a haven for those stricken with tuberculosis.

He stated that the Karl Von Ruck House is composed of two dwellings connected by a two-story music room. The original house, constructed circa 1900, represents the transitional Victorian architecture with classical ornamentation and detailing. A second structure was built to the south of the original residence in 1912 and was used as Von Ruck's laboratory, housing facilities for researchers and a pharmacy. This structure reflects the Colonial revival and English cottage architectural styles.

He said historically, Karl Von Ruck was among the first of a line of Asheville pulmonary disease specialists who achieved national and international notoriety for their contribution to the treatment of tuberculosis. Due to Von Ruck's efforts in developing tuberculosis vaccines in the 1910's, Asheville became the mecca for the treatment of this disease. Von Ruck came to Asheville in 1888 and opened the Winyah Sanitarium where he began treating patients for one of this nation's foremost killers. By 1900, Von Ruck had relocated the Winyah Sanitarium to Spears and Mt. Claron Avenues between Merrimon Avenue and Broadway. By 1914 he presented before an international conference in London, his findings for the successful immunization of children against tuberculosis. Karl Von Ruck lived and worked out of the present mansion until his death in 1922.

He said that the Historic Resources Commission, at the request of Dr. John Killian, owner of the property, has studied the Survey and Research Report as submitted by Dr. Killian's consultant and determine the building to be eligible for designation as a Local Historic Landmark. The North Carolina Department of Cultural Resources concurs with the Historic Resource Commission's nomination.

Upon inquiry of Councilman Swicegood, Mr. William C. Bass, contractor representing the property owner, John Killian, said that the building currently has 23 apartments and when the rehabilitation is finished, it will remain an

apartment building. He said that when the rehabilitation first started only 60% of the apartments were occupied and the other 40% were not livable.

Mr. Bass said that the property owner will be spending approximately $600,000 to rehabilitate the house over a two year period of time.

Upon inquiry of Vice-Mayor Ellison, Mr. Newell explained that the Historic Resources Commission is primarily concerned with the exterior of the house but in this case, the interior has a significant amount of historical value too.

Upon inquiry of Vice-Mayor Ellison, Mr. Newell said that the taxes on this property for 1991 is $2,436 and the tax valuation is $258,700. Mr. Newell felt that the rehabilitation of this house will far outweigh the tax loss.

Mayor Michalove closed the public hearing at 4:22 p.m.

Mayor Michalove Council stated that members of Council have been previously furnished with copies of the ordinance and it would not be read in its entirety.

Councilman Moore moved for the adoption of Ordinance No. 1955. This motion was seconded by Councilman Worley.

On a roll call vote of 5-2, with Councilmen Peterson and Swicegood voting "no", Ordinance No. 1955 passed on its first reading.

Councilman Moore moved to suspend the rules and proceed to the second reading of Ordinance No. 1955. This motion was seconded by Councilwoman Field and carried unanimously.

On a roll call vote of 5-2, with Councilmen Peterson and Swicegood voting "no", Ordinance No. 1955 passed on its second reading.

Councilman Moore moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1955. This motion was seconded by Councilman Worley and carried unanimously.

On a roll call vote of 5-2, with Councilmen Peterson and Swicegood voting "no", Ordinance No. 1955 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 14

B. PUBLIC HEARING RELATIVE TO THE FINAL APPROVAL OF THE SITE PLAN FOR THE BUNCOMBE COUNTY DETENTION FACILITY/JAIL COMPLEX

Mayor Michalove opened the public hearing at 4:24 p.m.

The Deputy City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Ms. Carol Alberice, Urban Planner II, said that this group development request is a proposal to construct a new 145,000 square foot detention center/jail facility in downtown Asheville. The applicant is Buncombe County and the plans have been prepared by Obrien Atkins Associates of Research Triangle Park.

She said the proposed site is located directly behind the Buncombe County Courthouse between Davidson Street and Valley Street. The site is currently used for parking and contains a building occupied by the County Engineering staff. The site is 1.12 acres in size and is located within the Commercial Service Zoning District and the Downtown Design Review area. Due to the development standards for the Commercial Service Zoning District, the project as proposed will require variances for the following standards: front and rear setbacks, the required 10 foot wide landscaping strip for street trees, the required parking and an off-street loading requirement that does not allow access or egress from public streets only by backing into or from the proposed loading area.

She said water and sewer services are available to the site. Fire protection is adequate to serve the proposed building. City Driveway Entrance Permits will be required for the two entrances proposed.

She said that at their November 6, 1991, meeting, the Asheville Planning and Zoning Commission voted to recommend approval of the group development request subject to the following contingencies:

1. Variances be granted on the front setback from 35 feet to 1 foot and the rear setback from 8 feet to 3 feet;

2. Variance be granted for the required 10 foot wide landscaping strip for street trees;

3. Variance be granted for the reduction of required parking spaces from the 121 spaces to 6 spaces;

4. A variance be granted from the requirement in the parking and loading standards that states "No access or egress driveway, except for single and two family houses, shall be so arranged that vehicles can enter and leave only by backing on or across any sidewalk or to or from any street."; and

5. This area be rezoned from CS to CBD and that the rezoning process be carried out concurrently with the group development process going on to City Council in the anticipation that by the time the rezoning process has been approved that this would coincide with the letting of bids in March, 1992.

She said the Commission also voted to approve the project for Downtown Design Review.

She said the reason for the rezoning would be to eliminate the need for the variances. Within the Central Business District, the parking and loading requirements are not applicable, the 10 feet wide landscaping strip is not required for the street trees and building setbacks are not required.

Mr. Steve Metcalf, County Manager, gave a brief report of the history and planning process that went into this group development. He said that the project will be a 288 bed facility with an approximate cost of $18 Million.

Mr. Roger Cannon with Obrien Atkins Associates of Research Triangle Park, said that safety, security, keeping the project within budget and having the building be architecturally compatible were main objectives in preparing the site plan. He stated that maintaining the height was the highest priority. He then gave a brief description of the building.

Upon inquiry of Vice-Mayor Ellison relative to the variance of 121 spaces to 6 spaces, Ms. Alberice explained a "jail" was not specifically denoted in the zoning ordinance. Therefore, Planning and Legal staff determined that the clause referring to sanitariums, rest homes and similar institutions was the closest related use, which requires one space for each three beds plus one space for each four employees.

Mr. Metcalf explained that the 6 spaces will only be for the use of arresting officers who are dropping off prisoners. He said that the Courthouse has only one space for that purpose now. He said the parking area will

accommodate a bus plus the 6 spaces and there is on-street parking should the 6 spaces be filled. He felt that the move of the Department of Social Services and the Sheriff's Department from the Courthouse has freed up additional parking and felt that parking should not be a problem since visitation rights are only on the weekends.

Upon inquiry of Councilwoman Field, Mr. Metcalf stated that the County has planned for the growth of beds in 20 years.

Councilman Moore felt that if anyone else came before the Council with as many variances as this site plan, he hoped it would be rejected summarily. However, because of the overriding necessity to upgrade the living conditions of human beings, he felt the Council should not delay in approving this site plan.

Mayor Michalove closed the public hearing at 5:09 p.m.

Vice-Mayor Ellison moved to approve the site plan subject to the conditions imposed by the Planning and Zoning Commission, including the granting of the variances which are set forth above. This motion was seconded by Councilman Moore and carried unanimously.

C. PUBLIC HEARING RELATIVE TO THE DEMOLITION OF THE DWELLING KNOWN AS 10 SUNSET SUMMIT

Mayor Michalove opened the public hearing at 5:10 p.m.

The Deputy City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Mr. Bob Hixson, Director of Building Inspections said that proceedings have been instituted in accordance with the provisions of the City of Asheville Housing Code, Section 8-29 (B) (2), as authorized by N. C. Gen. Stat. sec. 160A-443 (2). A hearing was held on September 24, 1990, and the dwelling at 10 Sunset Summit was found unfit for human habitation, and a Findings of Fact and Order was issued finding the dwelling, in its present condition, an imminent threat to life and property. The owner was given 30 days to demolish the dwelling. The owner has not complied with said Order in any respect and the time for doing so has expired.

Mr. Hixson said that out of 14 bids for demolition, only one was responsive, Buncombe Construction. He said the cost for demolition was approximately $95,000. He felt that if we lowered the amount of the house to be demolished (down

to grade), he felt we could get the demolition price lowered.

Upon inquiry of Mayor Michalove on the reason for such a high figure for demolition (since they normally run under $10,000), Mr. Hixson said that the location of the house being on the top of a mountain makes it hard for trucks to get up and down the steep grade; the house is on a very steep lot; there is approximately 240 cubic yards of concrete to blast out and there is a lot of steel in the building.

In response to Vice-Mayor Ellison, Mr. Hixson said the appraised value of the house in its present condition is $155,000 and the land is appraised at $75,000. He said the tax valuation is $109,800.

Vice-Mayor Ellison asked what the amount would be to securely board up the house until the owner could sell it and Mr. Hixson replied that it would cost approximately $10,000.

Upon inquiry of Vice-Mayor Ellison relative to the use of eminent domain, City Attorney Slawter said that under the eminent domain law, the City would have to use the house for some public use. He said that the City is using the proper procedure in accordance with the provisions of the City of Asheville Housing Code, Section 8-29 (B) (2), as authorized by N. C. Gen. Stat. sec. 160A-443 (2).

Councilman Peterson asked who would be liable if someone got hurt in the house. Mr. Hixson said that even though the City has posted numerous signs on the house, they disappear all the time.

John Powell, attorney representing Mrs. Florence Brummer, said that Mrs. Brummer is not financially able at the present time to pay for the boarding up of the house. He said that Mrs. Brummer is not looking for any profit from the house, just to get out from under it. He said he would recommend to Mrs. Brummer that she sign any documents necessary for the City to make the house safe and secure.

At the request of Councilwoman Field, Mr. Hixson explained the structural damage to the house.

Councilman Moore felt the City needed more information before he would feel comfortable in spending $95,000 to tear the house down.

Councilman Worley questioned that if the City boarded up the house, would the City have a lien on the property.

Or, if the City boarded up the house, would Mrs. Brummer repay the City when the house was sold.

Upon inquiry of Councilwoman Field, Mr. Powell felt that there was probably no homeowners insurance.

After City Attorney Slawter said that the property taxes have not been paid for the past three years, Vice-Mayor Ellison asked if the County could sell the property for unpaid taxes.

Ms. Barbara Pate, President of Sunset Mountain Homeowners Association, also felt that $95,000 to demolish the house was too high a figure to demolish the house. She stated that if the City had made some timely decisions seven years ago when the neighbors said violations of the variance were occurring, the City would not be in the mess it is today trying to demolish the house. She said the property values of the surrounding neighbors have been greatly diminished and the City may not be held legally liable, but morally they would be liable. She stressed the City to make a timely decision on the demolition.

Mr. Harvey Heywood, Treasurer of the Sunset Mountain Homeowners Association, agreed that the house needed to be boarded up and echoed Ms. Pate's comments. He said that he has talked with two contractors who felt they could demolish the house for between $23,000-$66,000. Mayor Michalove suggested that he give Mr. Hixson the names of those contractors in order that Mr. Hixson would get in touch with them.

Mayor Michalove asked City Attorney Slawter for a report relative to Section 30-10-1 of the Code of Ordinances relating to zoning administrator's responsibilities to enforce the zoning ordinance.

Mrs. Lola Myers, 4 Crowningway Drive, felt that the property owners should not have had to hire attorneys to enforce the zoning ordinance.

It was the consensus of Council to have Mr. Powell contact Mrs. Brummer and let her know the questions and concerns the City Council has expressed and let the Council know her responses at the next Council meeting, January 7, 1992.

Councilman Swicegood stated that the City needed to beef up the police protection in the area around the house to discourage vandalism and possible injury.

Vice-Mayor Ellison suggested posting more conspicuous "No Trespassing" signs around the house so that any child that can read will know not to go around the house.

Councilwoman Field moved to continue the public hearing until January 7, 1992, without further advertisement. This motion was seconded by Councilman Moore and carried unanimously.

D. PUBLIC HEARING RELATIVE TO THE APPROVAL OF REFUNDING THE PARKING GARAGES CERTIFICATES OF PARTICIPATION.

RESOLUTION NO. 91-201 - RESOLUTION OF THE CITY OF ASHEVILLE, NORTH CAROLINA, APPROVING AN INSTALLMENT FINANCING CONTRACT AND RELATED MATTERS

Mayor Michalove opened the public hearing at 5:57 p.m.

The Deputy City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

City Manager Bean stated that the City has been monitoring interest rates and refinancing the parking garages Certificates of Participation at this time will save the City approximately $1 Million over the life of the bond, which was a 15 year bond.

In response to Councilman Swicegood, City Manager Bean said the City could refinance again in the future if interest rates drop into the 4% range.

Mayor Michalove closed the public hearing at 6:02 p.m.

Mayor Michalove stated that members of Council have been previously furnished with copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Moore, seconded by Councilman Worley, Resolution No. 91-201 passed unanimously.

RESOLUTION BOOK NO. 19 - PAGE 58

IV. NEW BUSINESS:

A. REPORT RELATIVE TO PROPERTY ADJACENT TO THE ASHEVILLE REGIONAL AIRPORT

City Attorney Slawter gave a brief report relative to the proposed exchange of land with Murphy-Wilson Investments for property adjacent to the Asheville Regional Airport. He

said that he wrote to the attorney with Council's proposal and to date he had not had a reply.

It was the consensus of Council to have the City Manager and/or City Attorney contact Murphy-Wilson Investments' attorney and ask them to vacate the property.

B. RESOLUTION NO. 91-202 - RESOLUTION REQUESTING MSD TO REHABILITATE THE SEWER LINE SERVING HAWTHORNE VILLAS

City Manager Bean said that Section 19 of the agreement by and between the City and MSD provides that MSD will rehabilitate collector sewer systems in residential subdivisions upon a formal request to do so by the political subdivision in which the collector sewer system is located and in the event that such collector sewer system is determined by MSD to be a hazard to the public health and welfare within the district. He said the City has received a request from the homeowners of Hawthorne Villas that the City make a formal request to MSD for rehabilitation of the collector sewer system serving Hawthorne Villas. He said this resolution requests MSD to rehabilitate the sewer system serving Hawthorne Villas in accordance with Section 19 of the agreement between the City and MSD dated 11/21/89.

Mayor Michalove Council stated that members of Council have been previously furnished with copies of the resolution and it would not be read in its entirety.

Upon motion of Vice-Mayor Ellison, seconded by Councilwoman Field, Resolution No. 91-202 was unanimously adopted.

RESOLUTION BOOK NO. 19 AT PAGE 62

C. FINAL PLAT APPROVAL FOR LINDSEY SUBDIVISION LOCATED ON BARNARD AVENUE AND FENNER ROAD

Mr. Gerald Green, Senior Planner, said that this subdivision of property involves the division of a 3.5 acre parcel into two lots. The property abuts Barnard Avenue and Fenner Road in north Asheville. One of the lots is 2.75 acres in area and fronts on Barnard Avenue. This lot is currently vacant and wooded. The second lot is .72 acre and contains eight existing apartments which were approved through the group development process in 1986. This new lot would continue to meet the group development standards as proposed.

Mr. Green said that water, sewer and fire protection services are available to the proposed lots. No new streets are required because both lots abut existing public roads.

He said the Planning Department received a number of calls regarding this subdivision of property. Their concern has not been directed at the division of the property into two lots but rather with the future development of 2.75 acres of undeveloped land. Any residential development of this property larger than a single duplex would require group development review. Also, any further division of the undeveloped land into separate parcels would require further subdivision review by the Planning and Zoning Commission and City Council.

Councilwoman Field moved to approve the final plat for Lindsey Subdivision located on Barnard Avenue and Fenner Road. This motion was seconded by Councilman Moore and carried unanimously.

D. ORDINANCE NO. 1956 - BUDGET AMENDMENT TO APPROPRIATE FUNDS FOR A MICROWAVE LINK WITH WHITE FAWN MOUNTAIN

City Manager Bean said that this budget amendment is an appropriation in the amount of $73,000 to allow the purchase of a microwave link between the Municipal Building and White Fawn. He said this link is required to replace the link originally planned, which used the Sheriff's Department link on the Courthouse. He said the Courthouse link was lost in the move of the Sheriff's Department to Biltmore.

Upon inquiry of Councilwoman Field relative to a possible acoustical problem in the Pack Plaza Theater, John Miall, Director of Risk Management, said there would be no problem due to the smaller sized dish.

In response to Councilman Swicegood's question relative to the amount of money the City is spending on cellular services, City Manager Bean stated that he has put together a report on that issue which was handed out earlier that day in a packet of materials to the Council.

Mayor Michalove Council stated that members of Council have been previously furnished with copies of the ordinance and it would not be read in its entirety.

Councilman Worley moved for the adoption of Ordinance No. 1956. This motion was seconded by Councilman Moore.

On a roll call vote of 7-0, Ordinance No. 1956 was unanimously adopted.

ORDINANCE BOOK NO. 13 AT PAGE 18

V. CONSENT:

A. RESOLUTION NO. 91-203 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE INDEMNIFICATION LETTERS FOR CITY-SPONSORED FESTIVALS.

This resolution will authorize the City Manager to execute letters which will indemnify property owners when their property is used for City-sponsored or co-sponsored festivals when the letters are requested by the property owners. The indemnification provided in those letters will be limited to the specific portion of the property used by the City of Asheville for the festival, to the specific days and hours the property is used by the City of Asheville for the festival, to actions taken by employees, officers or authorized agents of the City of Asheville and to the amount of coverage in the City's comprehensive general liability policy.

RESOLUTION BOOK NO. 19 AT PAGE 63

B. RESOLUTION NO. 91-204 - RESOLUTION AMENDING RULE 24 OF THE RULES OF PROCEDURES FOR THE ASHEVILLE CITY COUNCIL

Rule 34.A currently provides that the Employee Services Manager shall have the authority, upon the written approval from the City Manager and the Corporation Counsel, to authorize settlements of claims against the City pertaining to workers' compensation. Since there no longer exists a position with the title "Employee Services Manager" and since the responsibilities of that former position have now been assumed by a position with the title "Director of Risk Management", it is necessary to amend the provisions of Rule 34.A. to reflect that change.

RESOLUTION BOOK NO. 19 AT PAGE 64

C. RESOLUTION NO. 91-205 - RESOLUTION REAPPOINTING A MEMBER TO THE ASHEVILLE-BUNCOMBE COMMUNITY RELATIONS COUNCIL

The term of the Chief of Police, as a member of the Asheville-Buncombe Community Relations Council, expires on December 31, 1991. This resolution will reappoint the Chief of Police for a three year term, term expiring December 31, 1994.

RESOLUTION BOOK NO. 19 AT PAGE 65

D. RESOLUTION NO. 91-206 - RESOLUTION REAPPOINTING MEMBERS TO THE ASHEVILLE DOWNTOWN COMMISSION

The terms of Brady Blackburn and Donald Harrison, as members of the Asheville Downtown Commission, expire on December 31, 1991. This resolution will reappoint Mr. Blackburn and Mr. Harrison for additional two year terms, terms to expire on December 31, 1993.

RESOLUTION BOOK NO. 19 AT PAGE 66

E. RESOLUTION NO. 91-207 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE TREE/GREENWAY COMMISSION

Sandra Byrd has resigned as a member of the Asheville Tree/Greenway Commission. This resolution will appoint Joey Moore, Community Arts Council, to fill the unexpired term of Ms. Byrd, term to expire on August 1, 1993.

RESOLUTION BOOK NO. 19 AT PAGE 67

F. MOTION SCHEDULING A PUBLIC HEARING FOR JANUARY 7, 1992, RELATIVE TO REZONING THREE PARCELS OF PROPERTY ON DAVIDSON STREET FROM COMMERCIAL SERVICE DISTRICT TO CENTRAL BUSINESS DISTRICT.

Upon motion of Vice-Mayor Ellison, seconded by Councilwoman Field, the consent agenda was unanimously adopted.

VI. OTHER BUSINESS:

A. REMINDER - NO CITY COUNCIL MEETING ON DECEMBER 24, 1991, OR DECEMBER 31, 1991

B. CLAIMS

The following claims were received by the Office of Risk Management during the week of December 2 - 6, 1991: Pam West (Water); Michelle Hedgepath (Water); Jerry Harmon (Water); Mary Horvath (Water); W.O. Hodges (Water); Kathy Spake (Water); Thomas F. Price (Water); Betty Sanders (Water); Kathryn Stead (Police); and Fonda Ownbey (Parks).

He said the following claims were received during the week of December 9 - 13, 1991: Thomas Cook (Parks); Kari Simensen (Water); Matthew Massengill (Water) and Jess R. Shyder (Street).

He said these claims have been referred to the appropriate insurers for investigation.

VII. ADJOURNMENT

Mayor Michalove adjourned the meeting at 6:30 p.m.

William J. Wolcott
CITY CLERK

H. M. Michalove
MAYOR

Tuesday - January 7, 1992 - 4:00 p.m.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Councilwoman Field read a Christmas card sent out by Earth Guild.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the December 17, 1991, meeting minutes.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING JANUARY 1992 AS "CRIME STOPPERS MONTH".

Councilman Worley, member of the Crime Stoppers Committee, read the proclamation. Mayor Michalove then presented the proclamation to Ms. Becky Boyd, Coordinator of Crime Stoppers, who praised the cooperation of the citizens of Asheville working with the Crime Stoppers Program.

B. PRESENTATION OF THE QUARTERLY B*E*S*T AWARD.

City Manager Bean was pleased to present Mr. Charles Carver of the Water Maintenance Division, with an award for being chosen the Third Quarter B*E*S*T employee. He said Mr. Carver is recognized among his peers as always helpful, honest and highly dependable. He said that during this quarter, while walking from work through the tunnel, he came across the contents of a purse. He picked up all the contents, including money, put them in a holder, walked back to the Police Department to turn them in and then returned to walking back through the tunnel.

C. PROCLAMATION PROCLAIMING THE WEEK OF JANUARY 13-20, 1992, AS "DR. MARTIN LUTHER KING JR. WEEK".

Mayor Michalove was pleased to proclaim the week of January 13-20, 1992, as "Dr. Martin Luther King Jr. Week" in

the City of Asheville. He presented the proclamation to Ms. Oralene Simmons who gave some background information about the activities that would be held during that week.

II. PUBLIC HEARINGS:

A. **PUBLIC HEARING RELATIVE TO REZONING THREE PARCELS OF PROPERTY ON DAVIDSON STREET FROM COMMERCIAL SERVICE DISTRICT TO CENTRAL BUSINESS DISTRICT.**

ORDINANCE NO. 1957 - ORDINANCE AMENDING ZONING OF PROPERTY LOCATED ON DAVIDSON STREET (PETITION OF THE CITY OF ASHEVILLE AND BUNCOMBE COUNTY, OWNERS)

Mayor Michalove opened the public hearing at 4:20 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Ms. Carol Alberice, Urban Planner II, stated that this rezoning is requested because of the Buncombe County jail facility, which group development was approved by Council on December 17, 1991. She said that the Planning and Zoning Commission, at its meeting on December 4, 1991, reviewed and recommended approval of the rezoning of three properties on Davidson Street, two properties owned by Buncombe County and one lot owned by the City of Asheville, to be rezoned from Commercial Service District to Central Business District. She said this property is located directly behind the County Courthouse and consists of 1.78 acres.

Mayor Michalove closed the public hearing at 4:23 p.m.

Mayor Michalove stated that members of Council have been previously furnished with copies of the ordinance and it would not be read in its entirety.

Vice-Mayor Ellison moved for the adoption of Ordinance No. 1957. This motion was seconded by Councilman Moore.

On a roll call vote of 7-0, Ordinance No. 1957 passed on its first reading.

Vice-Mayor Ellison moved to suspend the rules and proceed to the second reading of Ordinance No. 1957. This motion was seconded by Councilman Peterson and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1957 passed on its second reading.

Vice-Mayor Ellison moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1957. This motion was seconded by Councilman Worley and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1957 passed on its third and final reading.

ORDINANCE BOOK 13 - PAGE 20-21

B. CONTINUATION OF PUBLIC HEARING RELATIVE TO AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH THE DWELLING KNOWN AS 10 SUNSET SUMMIT, ASHEVILLE, NORTH CAROLINA.

ORDINANCE NO. 1958 - AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS DIVISION TO DEMOLISH THE DWELLING KNOWN AS 10 SUNSET SUMMIT, ASHEVILLE, NORTH CAROLINA.

Mayor Michalove stated that this is a continuation of the public hearing opened on December 17, 1991.

City Manager Bean gave some background information on the reasons for continuing the public hearing. One reason was that only one bid was received and to date the City has received additional bids with varying amount based on the amount of work to be done (those amounts varying from $30,000 to $90,000). He said another reason for the continuance was that the Council had several legal questions relative to liens and liability. He said those have been addressed in a memo from City Attorney Slawter to the Council. He stated the third reason for the continuance was to give individuals interested in purchasing the property an opportunity to contact the owner, Mrs. Brummer. He said that the City would not be privy to any negotiations of that type.

In response to Vice-Mayor Ellison's question relative to the City imposing a lien upon the property for the cost of boarding up the structure, City Attorney Slawter stated that if the owner of property fails to comply with an order from the Chief Building Inspector to "repair, alter or improve or to vacate and close" a dwelling, the City may undertake the action that was ordered and the cost of that undertaking becomes a lien against the property. He said the action that may be taken by the City, which results in the lien, must be that action with the property owner has been ordered to perform and has failed to do so. He said that in this case, the owner was ordered to demolish the

structure rather than to "vacate and close" the structure. He said that a literal reading of the statute would prohibit the imposition of a lien for boarding up the structure at this time. He said that if the Council decided that they wanted to impose a lien upon the property for the cost of boarding up the house, another hearing on the matter would have to be held by the Chief Building Inspector at which time he might order the owner to "repair, alter or improve or to vacate and close" the structure and then if the owner does not comply, that lien could be imposed.

In response to Vice-Mayor Ellison's question about the cost for the City to board up the house, Bob Hixson, Director of Inspections, estimated it would take two people approximately two days, for an estimated amount of $2,500.

Upon inquiry of Councilman Peterson, City Attorney Slawter stated that he has not heard from John Powell, attorney representing Mrs. Brummer, relative to the questions and concerns the Council had raised at their public hearing on December 17, 1991.

It was discussed that for total demolition with the lowest bidder, the amount would be approximately $25,000-$30,000, with the City handling debris hauling, landfilling, site grading and seeding.

Councilwoman Field questioned the reason why the Chief Building Inspector did not order the owner to board up the property instead of demolishing it. Mr. Hixson stated that under the Housing Code, he is directed to order demolition if cost to repair the structure is 60% more than the fair market value.

In response to Councilman Peterson relative to the priority of liens, City Attorney Slawter said that the City would have a lien against the property for the cost of demolition, if the City were to undertake the demolition. He said that by statute, that lien would come ahead of all other liens against the property except liens for federal, state and local taxes. He said there are no liens of record for federal or state taxes, but the City and County property taxes for the years 1989 through 1991 are owned in a total amount of just under $8,000.

Vice-Mayor Ellison stated that he did not feel comfortable in putting a heavy burden on the City taxpayers to demolish the house.

Ms. Barbara Pate, President of Sunset Mountain Homeowners Association, stated that the house has created many problems for the neighborhood, i.e. traffic, unsavory characters roaming around in the house, safety concerns, parked cars at all hours, just to name a few. She stated that the problem will not go away if the City just boards up the house.

Vice-Mayor Ellison asked if the Sunset Mountain Homeowners Association would be willing to help the City in the financial part of getting the house demolished. Ms. Pate said that she would address the Association and poll them.

Mr. Harvey Heywood, 12 Sunset Summit, hoped the Council would digest all the information he assembled which was passed out at the Pre-Council meeting. He felt the demolition of the house would earn the respect of many Asheville citizens by showing them that the City of Asheville is a credible government that enforces its own laws and protects the property rights of its citizens.

Mr. Joe McGuire, attorney for the Sunset Mountain Homeowners Association, stated that the City should demolish the house and they would come out better in the long run. He said that since 1984 the house has been in violation of the law and hoped the City would not turn their back on this illegal house year after year. He said the house is a danger to all the people of that community as it attracts the criminal element and feels that boarding up the house would only be a temporary solution. He felt that the City is exposed to liability if someone is injured in the house. He felt it is economically feasible to ask the City to pay for the demolition of the house and felt that over 10 years the cost of demolition would come back to the City.

Mr. Dave Conroy felt that if the City was asking the Homeowners Association to chip in on the cost of demolition, he felt the City was side-stepping its duty since they have let this house violate the laws for so many years.

Mr. Bill Mebane sympathized with the cost of demolishing the house but stated that it is a blight on all the City of Asheville, not just the neighborhood.

Ms. Lola Myers, 4 Crowningway Drive, stated that she did not want the house boarded up and left and wanted the City to enforce its own laws which were violated back in 1984 and continue to this present time.

Mr. Steve Miller, 3 Sunset Summit, related an incident with the Police Department and asked the Council to do what is right and demolish the house.

A resident at 11 Crowningway Drive said that if the City just boards up the house, it will send a message to all the citizens of Asheville that zoning laws do not matter and they will not be enforced.

Mr. Max Cogburn, attorney who represented the Board of Adjustment in the litigation regarding construction of this house, said that every effort was made to follow procedures and if the City does not tear the house down, all the efforts of the volunteers who serve on the Board of Adjustment (and all other volunteers who serve on City boards) would become meaningless.

A man with Earthworks (potential contractor for the demolition of the house) stated that there was a lot of iron in the house and he saw a creative use for it by constructing a sculpture, if the neighborhood would purchase it from him.

Mayor Michalove said that the City has already invested a staggering amount of time and money in this matter, i.e. personal lawsuits, attorney time, staff time, etc., He felt that the City needed to support the decision of its volunteers and feels that the property values in the area will come up after the demolition. He, therefore, supports the demolition of the house with the City doing some of the work.

Mayor Michalove closed the public hearing at 5:42 p.m.

Mayor Michalove said members of Council have been previously furnished with copies of this ordinance and it would not be read in its entirety.

Councilman Moore moved for the adoption of Ordinance No. 1958. This motion was seconded by Councilman Worley.

On a roll call vote of 5-2 (with Councilmen Peterson and Swicegood voting "no"), Ordinance No. 1958 passed on its first reading.

Councilman Peterson felt it was hard to vote on this item because of the amount of money involved and felt that additional bids should be solicited to trim the price down further.

City Manager Bean stated that since all bids were sealed, the City would re-advertise and hoped that additional bids would be received.

Vice-Mayor Ellison wanted to give the Homeowners Association time to meet and see if they would be willing to commit some money to the cost of demolition.

Councilmen Worley and Moore supported the demolition of the house and felt that the cost was high, but from a moral standpoint the City needed to demolish it.

Councilwoman Field supported the demolition and hoped that some creative ideas would come up for the materials of the house in the near future.

Upon Council inquiry, City Attorney Slawter said that no further action would be required by the Council to authorize him to institute foreclosure procedures to foreclose on the demolition lien if the house were demolished. He said the City Manager has the authority to direct him in that regard.

Councilman Swicegood stated that he could not support the demolition at this time due to the amount of money involved.

Vice-Mayor Ellison moved that as soon as the City demolishes the structure, that the City Attorney immediately start foreclosure procedures. This motion was seconded by Councilman Moore and carried unanimously.

Mayor Michalove recessed the meeting for five minutes at 5:55 p.m.

III. OLD BUSINESS: None

III. NEW BUSINESS:

A. **RESOLUTION NO. 92-1 - RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASHEVILLE TO AMEND THE SECTION 3 DISCRETIONARY GRANT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION, PUBLIC TRANSPORTATION DIVISION.**

Ms. Wanda Winslow, member of the Asheville Transit Authority, said that the City of Asheville has the opportunity to revise its currently approved capital grant with the North Carolina Department of Transportation. She said this revision will allow the City to pursue design and construction of the new downtown transit transfer facility as well as purchase shelters and benches for the existing

routes. She said that the Transit Authority is asking the City Council to request advancement of these two capital projects (which are in the current Transportation Improvement Plan for Fiscal Year 93-94) to Fiscal Year 1991-92. She passed out a booklet entitled "Downtown Transit Needs Assessment" to assist the Council in understanding this procedure.

Vice-Mayor Ellison voiced concerns about whether the Council has actually supported the move of the transit transfer system to Coxe Avenue and the funds that will be involved to the renovation of Pritchard Park (which will be in the neighborhood of $300,000 - $400,000). He said he was considering the amount of time it would take to move the transit system just one block.

City Manager Bean said that there is nothing in the current Capital Improvement Plan (CIP) to improve Pritchard Park, but there are funds in the CIP for benches and shelters which could be used if the transit system were moved. He said that the City is putting together a proposed CIP which is for $150,000 over a two-year period of time for this improvement.

Councilman Peterson felt that the booklet passed out at today's meeting should have been included in the Council package on Friday in order to give the members ample opportunity to study this issue.

Mayor Michalove explained that the Council has already adopted the Transportation Improvement Plan and all the City is doing here is moving up the dates (from Fiscal Year 1993-94 to Fiscal Year 1991-92) and possibly reducing the cost of the work. He said that the City is only asking the federal government for the money <u>if</u> the City decides to construct the new transfer facility.

Carl Ownbey, Transit Planner, explained the different types of transit grants available to the City and felt that should not pass up this opportunity to ask the federal government to advance the two capital projects.

In response to Vice-Mayor Ellison, Mr. Ownbey said that if the City gets the grant, the City would have to use the $160,000 for a transfer facility, but the site is not specific.

Councilman Moore supports the moving of the transfer facility because the riders would benefit. He felt that the City should go ahead and request the grant and if the City did not want to move the transfer facility, the City could turn the money down.

In response to questions of Vice-Mayor Ellison relative to the City's being bound financially if the grant comes through, City Attorney Slawter said that a grant agreement has not been received for review by the legal staff in order to make that determination.

Mr. Ownbey, in response to Councilwoman's inquiry, said that if the City receives the grant, it could be used to upgrade Pritchard Park.

Upon motion of Vice-Mayor Ellison, seconded by Councilman Moore, Resolution No. 92-1 was unanimously adopted, subject to the City Attorney reviewing the documents to make sure that the City is not making any commitment to move the transfer station.

In response to Councilman Peterson's inquiry as to why the buses do not go upon mall property, Mr. Mark Rickards, General Manager of the Transit Authority, said that malls are private property and the property owners will not allow the buses on their property due to traffic jams and weight of the buses.

Councilman Peterson suggested the City try to convince the mall owners of letting the buses onto their property, which will not only benefit the stores in the malls, but help the senior citizens from having to walk the distance from the bus stops to the mall entrance.

RESOLUTION BOOK 19 - PAGE 68

B. RESOLUTION AUTHORIZING THE MAYOR TO RECONVEY THE ARCHITECTURAL AND CONSERVATION FACADE EASEMENT FOR THE OLD GLOBE FURNITURE BUILDING.

Fire Chief John Rukavina said that in late 1986, the Globe Furniture Building (24 Broadway) was virtually destroyed by fire and all that remained was its facade. He said that starting the day after the fire, efforts were initiated to preserve the facade for historical purposes. These efforts culminated in reinforcement of the facade and acquisition by the City of an easement on the facade from property owner Devere Lentz in October of 1990. The intent of this easement was to provide an opportunity for private parties to raise funds for the restoration of the facade. The City contributed $3,500 and the Preservation Society raised $6,500 for this restoration of this facade. On July 11, 1991, the City's Building Inspections Director was advised that there was evidence that the facade had "leaned" several inches and might be in danger of partial or complete collapse. The facade was secured with a scaffolding system (which is still in place today) and notice of a hearing on

repair or demolition was filed, with a hearing held on August 21, 1991.

He said that as a result of that hearing, Bob Hixson ordered the facade either be repaired or demolished by November 29, 1991. His order was based on his observations, on information collected from adjacent property owners, and David Day's (engineer) comments from the August 21 hearing as to the stability of the facade and the need to conduct repairs to mortar joints and other facade components that would deteriorate further in winter freeze/thaw cycles. Mr. Day estimated that the cost to demolish the facade would be approximately $9,000 and his estimate to repair/renovate it would be at least $9,000. The facade has neither been repaired or demolished as of this date.

As of August 21, the Asheville-Buncombe Preservation Society has been trying to raise funds for restoration of the facade and to date they have raised approximately $600.

The easement agreement between the City and Devere Lentz contained a clause that provided for reconveyance of the easement back to Devere Lentz. Because no repair or demolition action has taken place to date, and based on the recommendation of the City Attorney at the time the easement was first conveyed, it is recommended that the easement be reconveyed to Devere Lentz. He said that if the easement is reconveyed, the next step would be direction to Devere Lentz to demolish the Globe Furniture facade.

Mr. Harry M. Weiss, Executive Director of the Preservation Society, reviewed a statement (passed out during Pre-Council) relative to the Preservation Society's concerns for the preservation of the facade, which are as follows: (1) The Preservation Society reaffirms its position that the Globe Furniture facade is a significant historic resource in Asheville and that it should be preserved; (2) The recent rehabilitation of buildings along both sides of this block of Broadway, and the recent sale of the Jenkins Building for a rehabilitation project demonstrates a high level of interest in this block and its future economic viability; (3) The Preservation Society is focusing its efforts toward a permanent preservation solution of the Globe Furniture facade; (4) The Preservation Society recognizes that short term measures may be necessary to sustain the facade until a permanent solution can be realized; (5) Efforts to date have focused on short term measures which have successfully sustained the facade without leveraging a permanent preservation solution; and (6) Continued or additional action taken on the Globe Furniture facade should be based on the potential for leveraging a permanent preservation solution.

Vice-Mayor Ellison felt that the City Council was mislead when the City committed $3,500 for the restoration of the facade in October of 1990. He said it was their understanding that the City's commitment, along with the $6,500 from the Preservation Society would stabilize the facade permanently. He questioned who gave the Council the $10,000 figure to stabilize the facade. Mr. Bob Hixson stated that the estimate of $10,000 to restore the facade was given by an engineer. Mr. Hixson said that the money has prevented the facade from falling into the street.

Councilwoman Field asked who allowed the owner to fill in the basement area with dirt between two party walls and to use it as a parking lot. Mr. Hixson stated that no one in the City was contacted relative to this matter.

A man who purchased 32 Broadway felt that the restoration of the facade could only increase further downtown development and increase future projects on Broadway Avenue. He felt that other downtown redevelopment projects have had public support. He stressed cooperation between the Preservation Society and the City to stabilize and renovate the facade.

Vice-Mayor Ellison stated that several meetings were held in 1990 relative to the Globe Furniture facade and suggested that minutes be obtained to show how much time and effort the City Council has really put into this matter.

Councilman Worley asked what the City could do, short of putting more money into the facade, to cooperate with the Preservation Society to restore the facade.

Mr. Weiss stated that the Preservation Society is not asking the City for more money, just not to proceed with demolition of the facade.

Mr. Devere Lentz gave some background information relative to his purchase of the building. He said that after the fire, he received bids to demolish the building and bids to demolish the building but leave the facade. He said to demolish the building and leave the facade doubled the earlier bid of total demolition. He said he filled in the basement area with dirt and stone to bring the basement area up to the Broadway Street level and to use it as a parking lot because there is limited parking on North Market Street. He stated that he would like the City to table any action until such time as the Preservation Society can come up with the money to stabilize and restore the facade. He said that he gave the City the easement and does not want the property back just for him to have to demolish it.

Vice-Mayor Ellison moved to continue this matter until March 31, 1992, to allow the Preservation Society additional time within which to come up with additional resources. This motion was seconded by Councilwoman Field and carried on a 6-1 vote, with Councilman Moore voting "no".

Councilmen Peterson and Swicegood felt that the Council should be better informed on all issues coming before the City Council.

C. RESOLUTION NO. 92-2 - RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASHEVILLE TO EXECUTE A REVISED EASEMENT IN FAVOR OF THE CAROLINA POWER AND LIGHT COMPANY.

City Manager Bean stated that Carolina Power and Light Company has requested that the City of Asheville execute a revised right-of-way easement on City of Asheville Property (McCormick Place) for an underground electric line that will serve the new fuel pump facility and will also provide electric service to Berlin Tire property.

Mayor Michalove said members of Council have been previously provided with copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Moore, seconded by Vice-Mayor Ellison, Resolution No. 92-2 was unanimously adopted.

RESOLUTION BOOK 19 - PAGES 69-70

D. RESOLUTION NO. 92-3 - RESOLUTION OF THE CITY OF ASHEVILLE, NORTH CAROLINA, APPROVING AN INSTALLMENT FINANCING CONTRACT AND RELATED MATTERS.

City Manager Bean stated that the City Council approved refunding of the 1987 Certificates of Participation for the parking garages in December of 1991 and this resolution approves the contract and designates the City Manager to act on behalf of the City in closing the refunding.

Mayor Michalove said members of Council have been previously provided with copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Worley, seconded by Councilman Moore, Resolution No. 92-3 was unanimously adopted.

RESOLUTION BOOK 19 - PAGES 71-74

V. CONSENT: None

VI. OTHER BUSINESS:

A. CITY COUNCIL RETREAT NOTEBOOKS

City Manager Bean passed out to the City Council their notebooks for their retreat.

B. REQUEST BY DAVID JOHNSON, PRESIDENT OF CURBSIDE MANAGEMENT

Mr. David Johnson, President of Curbside Management, requested the City establish a task force to enforce recycling and volunteered his expertise in the matter if such a committee was established.

C. REQUEST BY THE FRATERNAL ORDER OF POLICE

Mr. Bob Emory, Vice-President of the Fraternal Order of Police, requested $2,000 for an awards ceremony for the Asheville Police Department's recognition program. He said January 22 is the date for the ceremony and the members of City Council are invited. He said a location site has not yet been determined and that an awards ceremony of some type would be held with or without the City's contribution. He said that the ceremony last year was funded by the Fraternal Order of Police and by the Chief of Police personally.

City Manager Bean said that this matter does not need to come before the City Council. He suggested that the Chief of Police meet with him or Assistant City Manager Charles Penny and make such a request. He felt sure that if the Chief of Police felt the awards program was worthwhile, the City would probably be able to find the money to budget it.

D. ESTABLISHMENT OF A VICTIMS FUND

Mr. Chris Johansen, resident of the City of Asheville, recommended the City establishing a victims fund.

E. CLAIMS

City Manager Bean said that the following claims were received by the City during the week of December 23 - 27, 1991: Patricia Barnes (Water); Mike Smith (Streets); 55 Broadway Corporation (Planning & Inspections); and Terrence Gates (Water).

He also stated that the following claims were received during the week of December 30, 1991 - January 3, 1992:

Bill Hamilton (Inspections); Michael Lunsford (Water); Lettie Polite (Police); and Prosoft, Inc. (Police).

He said that these claims have been referred to the appropriate insurers for investigation.

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 7:50 p.m.

William D. Malcolm
City Clerk

V. M. Michalove
Mayor

Tuesday - January 21, 1992 - 4:00 p.m.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Vice-Mayor Gene Ellison gave the invocation.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the January 7, 1992, meeting minutes.

I. PROCLAMATIONS:

A. RESOLUTION NO. 92-4 - RESOLUTION OF APPRECIATION TO RETIREE, NOEL CALLOWAY.

Mayor Michalove read the resolution of appreciation to Noel Calloway who served the City of Asheville and its citizens for over a period of 42 years. Mayor Michalove said Mr. Calloway was Superintendent of Parking Services and he will be sorely missed.

Vice-Mayor Ellison moved for the adoption of Resolution No. 92-4. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 19 - PAGE 75

B. PROCLAMATION - JANUARY 26 - FEBRUARY 1, 1992 - "CATHOLIC SCHOOLS WEEK"

Mayor Michalove read a proclamation proclaiming the week of January 26 - February 1, 1992, as "Catholic Schools Week" in the City of Asheville and presented it to Sister Patricia Ann Pepitone, Principal of Asheville Catholic School.

C. PRESENTATION OF THE 1991 FOURTH QUARTERLY B*E*S*T AWARD

City Manager Bean presented Ernie Hewitt of the Planning Department with the Fourth Quarterly B*E*S*T Award. Mr. Hewitt saw a collision in which a pickup truck was overturned. Mr. Hewitt smelled gasoline, rushed to the overturned vehicle and pulled the occupant to safety. Mr. Bean stated that although this is a heroic act, Mr. Hewitt's award is based on this and his continued customer relations skills.

D. PRESENTATION BY THE ASHEVILLE FIRE DEPARTMENT ON RAPID ZAP

Fire Chief John Rukavina stated that in March, 1991, the Asheville Fire Department began delivery of automated-defibrillation ("RapidZAP") service from four fire stations. He said on January 21, 1992, the Fire Department will officially inaugurate "RapidZAP" service at all Asheville fire stations. He said this inauguration will place an automated defibrillator within an average of four minutes of a cardiac-arrest situation, where automated defibrillation can mean the difference between life and death.

Chris Morgan, District Chief, Tim Hinman, Firefighter, and others demonstrated "RapidZAP."

Mayor Michalove stated that this was a good example of how the City does make the best use of its resources.

II. OLD BUSINESS:

A. SECOND READING OF ORDINANCE NO. 1958, AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH THE DWELLING KNOWN AS 10 SUNSET SUMMIT, ASHEVILLE, NORTH CAROLINA

Mayor Michalove said that a public hearing was held on December 17, 1991, and continued until January 7, 1992, at which time this ordinance passed on its first reading.

Roy Hurst, co-owner of Unicon, said that he talked with Mrs. Brummer's attorney, John Powell, and told him of his proposal to acquire title to the house at 10 Sunset Summit and demolish the house down to its first level. He feels that this would make the property more sellable. Through Mrs. Brummer's attorney, he was told that she was receptive to the idea.

Upon inquiry of Mayor Michalove, City Attorney Slawter said that the ordinance before the Council is not for a partial demolition, but for a total demolition and therefore the Council could not hire Mr. Hurst to only partially demolish the structure.

Upon inquiry of Vice-Mayor Ellison relative to safety if only partial demolition was done, Bob Hixson, Director of Building Inspections, said that a fence or some type of railing would have to be put up on the first level of the foundation and, if that was done, he felt it would provide security for the house.

In response to Mayor Michalove relative to the trying to end the paper trail for someone who would like to acquire title to the house, City Attorney Slawter explained how the foreclosure process works and how the particular liens would be affected. He explained that he would have to research the specifics involved with foreclosure proceedings as it relates to this piece of property.

Mr. Hixson, in response to an inquiry of Councilman Swicegood, said that if the house was torn down to the first floor level (as proposed by Mr. Hurst), it would not be in compliance with the Housing Code because the Housing Code does not address partial demolition, only total demolition.

Vice-Mayor Ellison and Councilman Moore asked that Mr. Hurst should put together a written proposal to the Council on his idea of partial demolition, which should include, but not be limited to, financial aspects, time period involved, etc.

Mayor Michalove said that before the final reading of this ordinance, the Council would need (1) to know the legal ramifications of foreclosure proceedings, (2) a written proposal from Mr. Hurst, and (3) to have the City Attorney research the specifics of foreclosing on this piece of property. He said that the Council is very anxious to move forward on this matter but felt that the Council would be more informed after these items have been addressed. He said that the third and final reading of this ordinance would be postponed until Council had this information and adequate notice would be given to the public when the final reading would be held.

In response to Vice-Mayor Ellison, Bob Hixson said that the City could secure the property while foreclosure proceedings are taking place. It was suggested that the property owners in the area meet with Mr. Hixson and Assistant City Manager Charles Penny to discuss how to best secure the property.

Vice-Mayor Ellison moved to authorize the City Attorney to work with the County Attorney in order to proceed with a

tax foreclosure sale of property at 10 Sunset Summit for the collection of City and County taxes, subject to the City Attorney clarifying any legal concerns. This motion was seconded by Councilman Swicegood and carried unanimously.

On a roll call vote of 5-2 (with Councilmen Peterson and Swicegood voting "no"), Ordinance No. 1958 passed on its second reading.

Mr. Joe McGuire, attorney for the property owners, stated that he would meet with the City Attorney and discuss some problems he sees being encountered.

At the request of Mayor Michalove, a motion was made by Councilman Worley, seconded by Councilman Moore that he be excused from the meeting at 5:05 p.m. This motion was carried unanimously.

III. PUBLIC HEARING:

A. **PUBLIC HEARING RELATIVE TO A GROUP DEVELOPMENT PROJECT REGARDING THE NEW FEDERAL BUILDING TO BE LOCATED AT THE INTERSECTION OF PATTON AVENUE AND NORTH FRENCH BROAD AVENUE**

Vice-Mayor Ellison opened the public hearing at 5:06 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing and the affidavit of publication.

Mr. Don Sherrill, Urban Planner, said this group development request is a proposal to construct a new Federal Building in downtown Asheville. The proposal has been submitted by the General Services Administration. The project involves the construction of a six-story, 264,000 square foot office building at the intersection of Patton Avenue and North French Broad Avenue. The proposed building would contain offices and storage space that are currently located in the Grove Arcade.

He said the site is 3.5 acres in area and lies within the City's Central Business District (CBD) and the City's Downtown Design Review area. City Council previously adopted a resolution for the closing of Post Street between North French Broad Avenue and Otis Street.

He said the development standards for the Central

Business District do not require building setbacks. The CBD is exempt from the parking requirements contained in the City's Zoning Ordinance, however, the plans include a parking area containing 151 spaces. The parking area is elevated from North French Broad Avenue. Driveway entrances will be located off N. French Broad Avenue and Otis Street. The loading and service areas are to be located under the parking area and would be accessed from N. French Broad.

He said the landscaping plans submitted include 41 street trees along Patton Avenue, North French Broad Avenue, and Otis Street. The parking area includes 23 parking lot trees to be located within an island directly behind the proposed building. Trees will also be planted within a plaza area to be located at the intersection of Patton Avenue and Otis Street. Trees will be used to screen the parking area from the back of the old post office building that is located along Otis Street.

He said the Metropolitan Sewerage District has approved the requested allocation for sanitary sewer services. An application for letter of commitment for water availability is in process. Adequate fire protection is available to the site. The proposed building will contain a sprinkler system. The proposed driveway entrances have been approved by the City Public Works Department.

He said that at their December 4, 1991, meeting the Planning and Zoning Commission voted to approve the Downtown Design Review request and the group development request subject to the future design of the two public spaces located at the corner of North French Broad Avenue and Patton Avenue and also within the plaza area at the corner of Patton Avenue and Otis Street, to be reviewed by staff.

He also said that the Commission voted to recommend approval of the group development request subject to the following three contingencies:

1. GSA work out a right-of-way encroachment agreement with the City of Asheville for the placement of steps in the right-of-way along Patton Avenue;

2. Approval of letter of commitment for water availability by the Asheville Water Authority (which has at this time been received); and

3. GSA continue to work with the City staff as plans are finalized to achieve consistency with the City Streetscape Plans along with planned improvements scheduled for Patton Avenue.

Mr. James Smith, Project Manager with the General Services Administration, said that the project will begin in June of 1992 and has a completion date of approximately 2 years.

Mr. David Plant from the architectural firm gave detailed information of the project building and the area surrounding the building.

Due to numerous questions by the Council relative to the streetscape plan, the City Manager said that the streetscape plan would be given to the Council.

Mr. Will Nevill felt that cascading water should be included in the landscaping plan because water is aesthetically comfortable.

Mr. Plant answered questions from Mr. Gary Rowe, partial owner of the building directly across from the proposed location.

Vice-Mayor Ellison closed the public hearing at 5:33 p.m.

Councilman Moore moved to accept the report of the Planning and Zoning Commission (including the contingencies of the Commission) approving the project. This motion was seconded by Councilwoman Field and carried unanimously.

At this time, the following two **OTHER BUSINESS** items were considered:

A. GROUP DEVELOPMENTS

Mr. Don Sherrill, Urban Planner, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. He said in accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. He said the following actions were taken by the Planning and Zoning Commission on January 8, 1992.

A. OVERMAN APARTMENTS - GROUP DEVELOPMENT REVIEW

Mr. Sherrill said that this group development request is a proposal to locate a four-unit apartment building on three contiguous lots along Chatham Road. The site is

approximately one-half acre in size and the terrain is sloping. The proposed site lies within the City's R-3 Medium Density Residential District. The proposed building includes two stories and a total gross floor area of 2800 square feet. The plan meets all parking, landscaping and setback requirements. Buffers will be placed along two sides of the project and existing trees along the rear portion of the lot are to be preserved. Water and sewer services are available and water flow and pressure are adequate for fire protection. The driveway entrance has been approved by the Public Works Department.

Mr. Sherrill stated that a number of neighboring residents have expressed opposition to the location of the apartment building on Chatham Road and they have requested that the City Council schedule a public hearing on this matter. He said that issues that have been expressed include increased traffic on a narrow winding roadway (Chatham), the possibility of additional on-street parking, problems with the existing water line, crowded conditions, removal of existing trees, fencing, and possible Section 8 Housing.

Councilman Worley moved to schedule a public hearing on Overman Apartments for Tuesday, February 18, 1992, at 4:00 p.m. in the Asheville Civic Center Banquet Room. This motion was seconded by Councilman Moore and carried unanimously.

B. CARSON'S CREEK APARTMENTS - GROUP DEVELOPMENT REVIEW

Mr. Sherrill said that the group development request for Carson's Creek Apartments is a proposal to construct 160 residential apartments. The proposed site is located off Hendersonville Road (adjacent to Turtle Creek Apartments). The site is 11.79 acres in area and was previously included in the Gibson Estate. The site lies within the Commercial Highway Zoning District. All of the adjacent properties are also within the Commercial Highway Zoning District. The land is presently vacant.

He said the site plan proposes eight, three-story buildings. The maximum density allowed within the Commercial Highway District is 16 units/acre. The density proposed is 15.3 units/acre (excluding a proposed right-of-way). The proposal meets all parking, landscaping and setback requirements. Eighteen mature oak trees will be preserved and incorporated into the landscape design. Water and sewer services are available to the site. Adequate

water flow and pressure are available for fire protection. The proposal includes the installation of three new hydrants. The proposed driveway entrance is located off Hendersonville Road. The location of the entrance has been approved by the City Public Works Department and the N. C. Department of Transportation.

He said the developer is proposing to construct a roadway into the site, meeting City specifications for publicly maintained roadways within the City of Asheville. The developers may dedicate the roadway to the City at a later date.

He said that at the Planning & Zoning Commission's January 8, 1992, meeting, they voted to recommend approval of the group development request for Carson Creek Apartments subject to the contingency of (1) If the developer locates the master water meter for Carson Creek Apartments near the cul-de-sac entrance to the apartments (instead of along Hendersonville Road), the proposed waterline must meet the conditions outlined in Michael Brookshire's (Acting City Engineer) January 8, 1992, letter. The conditions are as follows: (a) Waterline between US 25 and the master meter location shall be installed outside the paved limits of a City of Asheville maintained street and right-of-way; (b) Plan of waterline extension to be prepared in accordance with the Asheville-Buncombe Water Authority standards by a N.C. registered professional engineer. Construction and inspection of said waterline and meter pit shall be performed in accordance with Asheville-Buncombe Water Authority standards; (c) Waterline between US 25 and meter pit shall be Class 50 ductile iron; and (d) Water system beyond the master meter pit location shall be reviewed and approved by the North Carolina Department of Environment Health and Natural Resources.

He said the developer has contacted the Planning Department since the recommendation of approval was granted by the Planning and Zoning Commission. The developer will locate the proposed water meter along Hendersonville Road instead of at the cul-de-sac.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

IV. NEW BUSINESS:

A. RESOLUTION NO. 92-5 - RESOLUTION AUTHORIZING THE CITY CLERK TO EXECUTE AN AFFIDAVIT FOR A NOTICE OF LIMITATION OF USE FOR THE FRENCH BROAD RIVER PARK PROPERTY DONATED BY CAROLINA POWER & LIGHT COMPANY

City Manager Bean said that in consideration of the funding of a Land and Water Conservation Fund Grant by the State of North Carolina for the development of a park along the French Broad River, the City of Asheville is required to record an Affidavit for a Notice of Limitation of Use along with the deed for the property. This resolution will authorize the City Clerk to execute the Affidavit for a Notice of Limitation of Use on behalf of the City.

City Manager Bean advised the Council that, as a condition of receiving the grant, the City must agree that if the property ceases to be used for recreational purposes in the future, the City must provide replacement facilities of comparable scope.

Vice-Mayor Moore said that members of Council have been previously furnished with a copy of this resolution and it would not be read in its entirety.

Councilman Moore moved for the adoption of Resolution No. 92-5. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 19 - PAGE 76

B. RESOLUTION TO ACCEPT CONTRACT NO. 9 STREET AND SIDEWALK BOND PROJECT (PATTON AVENUE REHABILITATION PROJECT)

City Manager Bean said that in 1987 the citizens of Asheville passed a $20,000,000 Bond Program of which $17,000,000 was earmarked for street and sidewalk improvements within the City of Asheville. The program called for the rehabilitation of certain streets in the downtown area, Patton Avenue being one of them. He said this project will result in a reconstruction of the area from Coxe Avenue to Otis because of some significant substructure defects and rehabilitation of the pavement from Clingman Avenue to Otis and from Coxe Avenue to Biltmore Avenue. In conjunction with the project, the sidewalks will be restored from Clingman Avenue to Biltmore Avenue utilizing the design criteria from the Streetscape Plan. He said $1.3 Million has been budgeted for this project. He said that one lane of traffic would be open on Patton Avenue at all times, that the City has encouraged the contractor to work around the clock for the 8-week period of time (with an incentive of a $500 bonus for every day before the deadline.

and a $1,000 penalty for every day after the deadline). He said that using granite curbing from Clingman to Biltmore would cost approximately $166,000 over the standard curbing, and therefore, he recommended not using the granite curbing which would allow the City would stay within its budgeted amount. He said that the sidewalks from Pritchard Park to Biltmore Avenue are not in too bad shape, but feels that within 3-5 years it will cost the City more money to repair these and therefore, they should be included in this project.

City Manager Bean recommended to the Council (because the City has just received these bids) that Council not award the bid at this meeting in order to give the Downtown Commission and the folks on the Streetscape Committee time to comment on this project plan. He suggested that Council hold this item over until their worksession on January 28, 1992.

Due to questions about the condition of sidewalks and streets in the project area, it was the consensus of Council to take a tour of the area on Monday, January 27, 1992, at 12:30 p.m.

Councilman Moore felt that the City should save all the money it can in relation to this project, because once the City starts going under the pavement on Patton Avenue, the project might end up costing a lot more money, just to fix on a minimum basis.

Councilwoman Field asked that the Streetscape Committee and the Downtown Commission be notified of these plans and that a report be given to the Council of their concerns at the worksession on January 28.

Councilman Worley moved to defer any action on this item until Council's worksession on Tuesday, January 28. This motion was seconded by Councilwoman Field and carried unanimously.

C. RESOLUTION TO ACCEPT CONTRACT NO. 5 STREET AND SIDEWALK BOND PROJECT (MONTFORD AVENUE REHABILITATION PROJECT)

City Manager Bean said that in 1987 the citizens of Asheville passed a $20,000,000 Bond Program of which $17,000,000 was earmarked for street and sidewalk improvements within the City of Asheville. The project will result in a reconstruction of brick sidewalks in the Montford Historic District. He said that the project was originally budgeted for $1 Million, but the lowest bid is for $643,792.

There was some discussion relative to the cost of brick sidewalks versus concrete ones. Jim Ewing, Director of Public Works, stated that a square yard of brick was $25.87 and a square yard of concrete was $24.70. If the City chose to put in concrete sidewalks, a savings of approximately $4-5,000 would be had, but the Historic Resources Commission asked that the sidewalks be replaced in the same manner that they are presently in, which is brick.

Councilman Peterson suggested delaying this action until Council has had an opportunity to look at this project area. He suggested that the Council tour this area at the same time they tour the Patton Avenue Project area.

Councilman Moore moved to award the bid to Paving Enterprises, Inc., in the amount of $643,792 for the Montford Avenue Rehabilitation Project (Street and Sidewalk Improvements Contract No. 5). This motion was seconded by Councilwoman Field. Councilman Peterson moved to delay any action on this matter for one week to give interested Council members time to tour the area. This motion was seconded by Councilman Swicegood, and was defeated on a 3-3 vote, with Councilmen Peterson, Swicegood and Vice-Mayor Ellison voting "yea" and Councilwoman Field and Councilmen Moore and Worley voting "no". Councilman Moore's motion was then defeated on a 3-3 vote, with Councilwoman Field and Councilmen Moore and Worley voting "yea" and Councilmen Peterson and Swicegood and Vice-Mayor Ellison voting "no".

Councilman Moore then moved to delay any action on this matter until February 4, 1992. This motion was seconded by Councilman Swicegood and carried unanimously.

D. ORDINANCE NO. 1959 - BUDGET ORDINANCE AMENDMENT TO ADMINISTER A DEPARTMENT OF CULTURAL RESOURCES CLG GRANT PROJECT: ELIADA HOME NATIONAL REGISTER NOMINATION AND HISTORIC STRUCTURE REPORT

Mr. Kent Newell, Historic Resources Director, said that the purpose of this project is two fold: (1) To prepare a National Register Nomination for the proposed Eliada Home Historic District which contains approximately eight contributing properties; and (2) To develop a plan for the stabilization, rehabilitation and preservation of the Main Building. The Historic Structures Report will assess the interior and exterior of this 1915 building, will recommend stabilization needed and will explore how to rehabilitate this building to once again house families in need. The maximum cost of the City would be approximately $250.00

Vice-Mayor Ellison said that members of Council have been previously furnished with copies of this ordinance and it will not be read in its entirety.

Councilman Worley moved for the adoption of Ordinance No. 1959. This motion was seconded by Councilman Moore.

On a roll call vote of 6-0, Ordinance No. 1959 passed on its first and final reading.

ORDINANCE BOOK NO. 13 - PAGES 25-26

V. CONSENT AGENDA:

A. **MOTION SCHEDULING A PUBLIC HEARING RELATIVE TO AMENDING RULE 3 OF THE RULES AND REGULATIONS OF THE CIVIL SERVICE COMMISSION OF THE CITY OF ASHEVILLE FOR FEBRUARY 18, 1992, IN THE ASHEVILLE CIVIC CENTER BANQUET ROOM, AT 4:00 P.M.**

B. **MOTION SCHEDULING A PUBLIC HEARING RELATIVE TO REZONING OF 773 EMMA ROAD FROM R-5 RESIDENTIAL DISTRICT TO LI LIGHT INDUSTRIAL DISTRICT FOR FEBRUARY 18, 1992, IN THE ASHEVILLE CIVIC CENTER BANQUET ROOM, AT 4:00 P.M.**

Councilwoman Field moved for the adoption of the consent agenda. This motion was seconded by Councilman Moore and carried unanimously.

VI. OTHER BUSINESS:

A. **RALPH BISHOP**

Mr. Ralph Bishop said that incidents such as happened after he addressed the Council at their last meeting (window broken out of his car) would not deter him from seeking redress from Council.

B. **ANNUAL REPORT - 1991**

City Manager Bean passed out the City of Asheville, North Carolina, Annual Report 1991.

C. **UNIFIED DEVELOPMENT ORDINANCE MINUTES**

Vice-Mayor Ellison appreciated the 1991 Unified Development Ordinance minutes that were included in the Council notebooks.

D. COUNCILWOMAN FIELD COMMENT

Councilwoman Field asked if there was any way to determine the cost of staff time caused by the delay of Council voting on matters. City Manager Bean said that it would be very difficult but he would discuss the matter further with her.

E. CLAIMS

City Manager Bean said that the following claims were received by the City of Asheville during the week of January 6-10, 1992: Myrtle Reed (Water); Linda Moore (Water); Clara Mehaffey (Water); Tim Johnston (Water); Jean Buchanan (Streets); and Ton Neimkin (Water).

He said that these claims have been referred to the appropriate insurers for investigation.

F. LAWSUIT

City Manager Bean said that on January 9, 1992, a lawsuit was received from Power Flo Products, Inc., d/b/a Deal Isuzu. He said it was an appeal from the Board of Adjustment decision. This lawsuit has been referred to the appropriate legal counsel for action.

G. FEBRUARY 4 AND FEBRUARY 28 CITY COUNCIL MEETINGS

Vice-Mayor Ellison announced that the Asheville City Council will be holding their February 4, 1992, and their February 28, 1992, City Council meetings at the Asheville Civic Center Banquet Room, at 4:00 p.m.

VII. ADJOURNMENT

Vice-Mayor Ellison adjourned the meeting at 6:45 p.m.

William S. Wolcott
CITY CLERK

W. M. Nichols
MAYOR

Tuesday - January 28, 1992 - 2:00 p.m.

Worksession

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Assistant City Manager/Deputy City Clerk Charles Penny

Absent: Councilman William G. Moore

RESOLUTION NO. 92-6 - RESOLUTION AWARDING BIDS FOR THE PATTON AVENUE REHABILITATION PROJECT (STREET AND SIDEWALK CONTRACT NO. 9) AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL RELATED AGREEMENTS

City Manager Bean gave background information on the Patton Avenue Project. He said that the total cost of the project is $1,413,000.

Mr. Don Martell, Chairman of the Downtown Commission, used slides to illustrate where the streetscape plan had been used in the downtown area.

Ms. Pat Smith, gave detailed information on the streetscape plan and the importance of using it as a guide.

Councilman Peterson moved to postpone this project and to set up a task force to examine which sidewalks need priorities throughout the City. This motion was not seconded and therefore died.

Councilman Swicegood moved to tour the project area again with the architects and engineers present. This motion was seconded by Councilman Peterson.

By consensus, the City Council agreed to recess for 45 minutes in order to tour the project area. Council returned to the meeting at 5:30 p.m.

Mayor Michalove said that members of Council have been previously furnished with copies of the resolution and it would not be read in its entirety.

Vice-Mayor Ellison moved to award the bid to APAC-Carolina Inc. in an estimated amount of $977,000, subject to the following contingencies:

1. That the work on Patton Avenue terminate at the NCNB Building.

2. That the work on College Street terminate at Haywood Street.

3. That granite curbing be deleted from the contract.

4. That tree grates be eliminated from the contract but be included with funds from the streetscape budget.

5. That the streetscape scoring pattern be included in the contract.

This motion was seconded by Councilman Swicegood and carried unanimously.

Councilwoman Field moved that the City mill and repave Patton Avenue from the NCNB Building to Biltmore Avenue. This motion was seconded by Councilman Worley and was defeated on a 1-5 vote, with Councilwoman Field voting "yea."

Vice-Mayor Ellison moved that the Streetscape Committee expand their plan to include the entire City of Asheville. This motion was seconded by Councilman Peterson. After discussion about the Streetscape Committee and its make-up, Vice-Mayor Ellison withdrew his motion and Councilman Peterson withdrew his second. The City Manager was asked to prepare a report on previous street and sidewalk bond projects and the plan for future construction projects.

RESOLUTION BOOK NO. 19 AT PAGE 77

Marcia D. Malcolm
CITY CLERK

H. Lee Mitchell
MAYOR

Tuesday - February 4, 1992 - 4:00 p.m.
Asheville Civic Center - Banquet Room

Regular Meeting

Present: Mayor Kenneth A. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Councilman Peterson gave the invocation.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the January 21, 1992, meeting minutes and the minutes of the January 28, 1992, worksession.

I. PROCLAMATIONS:

A. **PROCLAMATION PROCLAIMING THE WEEK OF FEBRUARY 9 - 15, 1992, AS "NATIONAL SALUTE TO HOSPITALIZED VETERANS WEEK."**

Mayor Michalove read the proclamation proclaiming February 9-15, 1992, as "National Salute to Hospitalized Veterans Week" and presented it to Chief of Voluntary Services Darlene Kirstein and Associate Director Marion Humphries.

B. **PROCLAMATION PROCLAIMING THE WEEK OF FEBRUARY 3 - 7, 1992, AS "TRAVEL AGENT APPRECIATION WEEK."**

Mayor Michalove proclaimed the week of February 3-7, 1992, as "Travel Agent Appreciation Week."

II. PUBLIC HEARINGS: None

III. OLD BUSINESS:

A. **RESOLUTION NO. 92-7 - RESOLUTION AWARDING BIDS FOR THE MONTFORD AVENUE REHABILITATION PROJECT (STREET AND SIDEWALK IMPROVEMENT CONTRACT NO. 5) AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL RELATED AGREEMENTS**

City Manager Bean said that in 1987 the citizens of Asheville passed a $20,000,000 Bond Program of which $17,000,000 was earmarked for street and sidewalk improvements within the City of Asheville. The project will result in a reconstruction of brick sidewalks in the Montford Historic District. He said that the project was originally budgeted for $1 Million, but the lowest bid is for $643,792. He recommended awarding the bid to Paving Enterprises in the amount of $643,792.

Mayor Michalove said that members of Council have been previously furnished with copies of the resolution and that it would not be read in its entirety.

Councilwoman Field moved for the adoption of Resolution No. 92-7. This motion was seconded by Councilman Moore and carried unanimously.

RESOLUTION BOOK NO. 19 - PAGE 79

B. REPORT FROM CITY ATTORNEY RELATIVE TO THE FORECLOSURE PROCEEDINGS OF 10 SUNSET SUMMIT.

City Attorney Slawter said that at the January 21, 1992, City Council meeting, the Council discussed the possibility of proceeding with a tax foreclosure in connection with the property located at 10 Sunset Summit, instead of proceeding at this time with the third reading of the ordinance for demolition. Since that meeting, he has talked with numerous people regarding how best to proceed, including the attorney for the neighbors, the County Attorney's Office, the Tax Collector's Office, the attorney for Mrs. Brummer, and others.

The investigation into the possibility of proceeding with a tax foreclosure first came about as a result of Mr. Hurst's inquiry as to how he might acquire the property and not completely demolish it. Mr. Slawter said that he had suggested the possibility of a tax foreclosure proceeding as an alternative to the demolition ordinance under consideration, since the demolition ordinance would have to require complete demolition, whereas a purchaser at a tax foreclosure sale would actually acquire title to the property and might have other options. As Mr. Slawter mentioned at the January 21 meeting, even if Mr. Hurst or someone with similar intentions were to purchase at a tax foreclosure sale, they would have additional considerations that must be addressed. Those would include the fact that the house is already the subject of a demolition order

entered by Bob Hixson, zoning considerations and building code considerations. If anyone is going to proceed with construction of a house on that site other than in compliance with the R-1 zoning restrictions, they will have to obtain a new variance from the Board of Adjustment. A purchaser at a tax foreclosure sale could not very well have obtained such a variance from the Board of Adjustment prior to even acquiring ownership of the property. It would not appear, therefore, that someone with Mr. Hurst's intentions could purchase the property at a tax foreclosure sale with any sort of assurance that he would be able to complete the structure where it now stands.

City Attorney Slawter said even so, there is still good reason for the City Council to proceed with a tax foreclosure rather than adopting the ordinance on third reading at this time. The ordinance, if adopted upon the third reading, would provide for the demolition of the structure by the City. Although the City would obtain a lien upon the property for the cost of demolition, the City would have the upfront cost of demolition that would have to be paid. The City would hopefully recoup this expense through a sale of the property following demolition.

By proceeding with the tax foreclosure, instead of the third reading of the ordinance, there is a substantial possibility that the City would never have to incur the upfront expense of demolition. There is still some possibility that the City would have to incur that expense. That would occur if there were no other bidders at the tax foreclosure sale, in which case the City would end up owning the property. Although the City would then be in a position of having to pay for the demolition, the City would already own the property, and we would not have to be concerned with a judicial sale of the property in order to recover payment, as would be required in the case of a demolition lien. If the City became the owner of the property following the tax foreclosure sale and then demolished the structure, the City could sell the property through normal means, which would be simpler and less expensive. In effect, the City would be accomplishing through the tax foreclosure sale prior to the demolition what would have otherwise been accomplished through a judicial sale to collect the demolition lien following demolition.

Hopefully, someone else would bid higher than the City at the tax foreclosure sale and would become the owner of the property. The City would bid only the amount of the outstanding taxes (approximately $8,000). Anyone bidding

more than that amount would become the owner. There are persons who have expressed interest in bidding higher than the City at a foreclosure sale. Those persons would be interested in demolishing the structure and owning the property for the cost of demolition plus the price paid at the foreclosure sale. If this were to occur, the City would of course not have to pay the cost of demolition.

The filing of a tax foreclosure proceeding is not totally without potential for problems. If everything went smoothly, and there were no difficulty with obtaining proper service upon all parties, the tax foreclosure sale could be completed in approximately 90 days. Additional time may be required due to difficulty in obtaining the necessary service. Since Mrs. Brummer has previously expressed an interest in getting rid of the property, so long as she could also get rid of the liens against her, he said that he had discussed with her attorney the possibility of her being more cooperative in being available for service. That may or may not work out.

An additional potential for delay exists with the possibility that one of the parties in interest might contest the proceeding or file a counter-claim against the City once the tax foreclosure proceeding is initiated. Such a case would have statutory priority for consideration on the trial court calendar, however, and could hopefully be resolved without undue delay. An additional element that could cause delay is the possibility of upset bids. Following the sale of the property for taxes, the high bid remains open for 10 days and that bid can be upset by anyone depositing additional money with the Clerk of Court within the 10 day period. Any such deposit requires that the property be resold, thereby resulting in a delay of approximately 30 days.

A final potential for delay arises if the high bidder were someone other than either the City or someone interested in the demolition of the structure. Such a person might challenge the existing order to demolish the structure. He said that he does not believe that such a challenge would be successful, but that would not necessarily prevent it from being raised.

Most of these potential problems would also exist if the City were to proceed with the demolition and then proceed with a sale of the property to collect the demolition lien. The difference is that if the Council proceeds with demolition first, any such complicating factors would more likely arise in connection with the

actions taken by the City to recover the cost of the demolition. In proceeding with the tax foreclosure, the complications would likely arise prior to the demolition, rather than afterwards.

If the City does proceed with the tax foreclosure, the third reading of the ordinance providing for demolition could be continued until a later date. If undue complications should arise in connection with the tax foreclosure, so that the Council felt compelled to proceed with the demolition rather than wait until the tax foreclosure could be completed, the Council could then go ahead with the third reading of the demolition ordinance and the demolition itself.

In summary, while proceeding with a tax foreclosure will almost certainly mean that the house will not be demolished as quickly as it might otherwise be, the sale of the property by tax foreclosure and the ensuing demolition should not take much more time, if any, than the total time that would be required for the City to both demolish the structure and collect on its demolition lien. In addition, the tax foreclosure provides the distinct possibility that the City will never have to make the investment of the cost of demolition.

Councilman Moore moved that the City Attorney be directed to proceed with the foreclosure sale and that the third reading of Ordinance No. 1958 be postponed until May 5, 1992. This motion was seconded by Vice-Mayor Ellison and carried unanimously.

IV. NEW BUSINESS:

A. MONITORING REPORT OF THE 2010 PLAN

Mr. Wayne Kinser, Chairman of the Planning and Zoning Commission, said that the Planning Department monitors and updates the 2010 Plan every six months and produces a summary report. He then proceeded to highlight the report.

B. REPORT RELATIVE TO THE NORTH ASHEVILLE PARK

Mayor Michalove said that not long ago the City adopted an ordinance relative to permitting parks in R-1 Residential Districts. He said that the adoption of that ordinance was in no way related to the proposed North Asheville Park. He stressed that the City does not own the property on which the park is proposed and that the School Board (owner of the

property) could have built the park at any time themselves without having to come before the City Council. He did say that money has been set aside for a park in north Asheville but a specific location has not been found yet. He said that the City Council would not be making any decisions on proceeding with this proposed park at the meeting today but would be happy to listen to comments from the audience.

Carolyn Tingle, Chairman of the Asheville Parks and Recreation Advisory Board, said that the original proposal included a regulation soccer field with two softball/Little League ballfields, an off-street parking lot of 65 spaces, and room for the expansion of the existing Jones School buildings. She said that after lengthy discussions the Citizens' Committee for Proposed Park in North Asheville agreed to present the following two proposals to the Council:

Plan A: Development of this area as a nature/environmental study area with walking paths and a better equipped playground. This plan would not include the development of any ballfields or athletic areas.

Plan B: Create a 200' ballfield/soccer area for children ages 5-12, a walking/jogging path, a playground for grades K-3, a picnic area, a nature trail, and the preservation of the trees wherever possible. This proposal would also request that parking be permitted on one side of Kimberly Avenue immediately adjacent to the proposed school park area.

Mayor Michalove said that it was his understanding that other locations were looked at as possible parks but for one reason or another those fell through.

In response to Vice-Mayor Ellison's question if there had been any presentation to the School Board about this, Ms. Tingle replied that there had not been any formal presentation, but that the School Board did send representatives to the meetings held.

Mr. Tom McClellan, 86 Edgelawn Road, presented a petition to the Council containing 971 signatures supporting Plan B. Of those 971 signatures, Mr. McClellan said that 80% of the people live within 1 mile of the proposed park. He spoke in support of the ballfield.

Mr. Bob Pitts, Vice-President of the North Asheville Youth League, stated that it was hard to find an available field for the kids to practice and spoke in favor of the ballfield.

Dr. Joe Sulock, 18 Beaverdam Knoll, passed out information relative to the number of children in various census tracts for 1980 and 1990 and spoke in support of the ballfield.

Dr. Lisa Friedenberg, from UNC-A, passed out information relative to important features of the North Asheville Park proposal and spoke in favor of the ballfield.

Mr. Larry Kimel, 861 Lakeshore Drive, spoke about the inadequacy of the number of ballfields in the North Asheville area and stated that the City needed to have an adequate number of parks to service the kids of the North Asheville community.

Mr. Keith Campbell, 651 Kimberly Avenue, felt that due to the topography of the site and the number of trees that would be destroyed, the ballfield should not be built. He felt that the nature/environmental study center should be built in this area. He mentioned that the Council was presented with a petition of 200 names not in support of the ballfield. He said that it was his understanding that diagrams were not to be used at the meeting and objected to the supporters of the North Asheville Park using them.

Mr. Gregory Walker, 35 Dogwood Road, President of the Community Association of North Asheville, spoke against the ballfield and felt that the integrity of the site would be lost if the ballfield was built.

Mr. George Simpson, 117 Norwood Avenue, said that there are large gullies in the proposed site and would not be in favor of the ballfield.

Ms. Leni Sitnick, 96 Gertrude Place, spoke against the ballfield and felt that the area is a totally unique forest and should not be destroyed. She felt that a nature/environmental study center might be more appropriate for the area.

Mr. Mike Lewis, 48 Gracelyn Road, spoke against the ballfield and felt that it would not be cost effective.

Ms. Riley, Secretary of the Beaverdam Community Council, said that the property is not suitable for a ballfield and that Beaverdam Road already has traffic problems and the addition of a ballfield would only worsen the problem.

Mr. Jim Brazell, 2202 Timber Place, President of Timbers Condominiums Homeowners Association, was sympathetic to the supporters of the ballfield, but felt that the area should be left as it is.

Mr. Dean Cochran, 28 Robinhood Road, representative of the Asheville Catholic School, spoke against the location of the ballfield and stated that Asheville Catholic School is happy to let groups use their field as long as it does not interfere with their activities and as long as they do not lose control of the church property.

Mr. Tom Wilson, 4 Fernbrook Place, spoke in favor of the ballfield and felt that North Asheville has needed the ballfield for a long time.

Mr. Raphael Chambers, felt that a little league ballfield was needed.

Ms. Susan Roderick, Chairman of the Tree/Greenway Commission, asked that Council take their time and look at the ballfield proposal thoroughly before making any decisions.

Ms. Meg McCloud, asked that Council consider the nature/environmental study center as a proposed use for the property.

Mr. E. C. James, 20 Northwood Road, spoke against the ballfield.

A resident of 2 Horizon Hill Road, asked the Council to request more factual information on grading specifications, traffic counts, etc.

Mr. George Groome, 430 Midland Drive, felt that a ballfield was badly need in the north part of town and spoke in support of the ballfield.

Mr. Jesse Carr, 6 Sandon Circle, said that Ray Kisiah, Director of Parks, Recreation and Public Facilities, has looked for a site in North Asheville for 12 years now and

felt that this proposed site would be a good site for a ballfield. He said that traffic counts have been done and that the ballfield would not adversely affect the traffic flow in the area.

Mr. Dan Lazar, 25 Kalmia Drive, felt that the City already has a nature/environmental center and felt the site would be used for a ballfield.

Mr. Michael Lazar, spoke in favor of the ballfield.

At 5:50 p.m., Council took at five minute recess.

Ms. Rebecca Sulock, 18 Beaverdam Knoll, spoke in favor of the ballfield and that it might make available more space for girl softball games.

Ms. Dot Sulock, 18 Beaverdam Knoll, spoke in favor of the ballfield.

Mr. Hugh McCollum, Co-President of the Jones School PTA, spoke in favor of a multi-purpose park be developed in the area.

Mr. Michael Sulock spoke in support of the ballfield.

Mr. Scott Forbes, 53 Brookwood Road, spoke in support of the ballfield.

Mr. Don McCeary, 25 Beaver Valley Road, felt a ballfield was needed, but not at this proposed location. He felt that senior citizens might benefit from a park area for them to walk in.

A resident of 2 Kimberly Knoll Road, felt the area should be developed as a nature/environmental center.

A resident at 659 Kimberly Avenue, felt that area was not appropriate for the ballfield.

Mr. Joseph Kowal, felt that must be a better spot and what is proposed for a ballfield. He mentioned several species of trees that would be destroyed if a ballfield were built.

Mr. David Gochenour, 927 Country Club Road, felt that since the City has been looking for a site for a ballfield in North Asheville for 12 years now that perhaps they might go to a Realtor to help them look. He spoke against the ballfield in the proposed area.

Ms. Ann Thorne, 400 Country Club Road, said that she was not opposed to organized sports, but felt that a nature/environmental center would be better for the area.

Mr. Harold Garland, 88 Fenner, spoke against the ballfield stating that drainage of the area would be a problem and damage to tombstones bordering the area might be damaged.

Ms. Francis Swanson, 16 Lorraine Avenue, spoke about poor drainage in the area and erosion control problems. She spoke against the ballfield.

A resident of 2701 Timber Trail, felt that the area is not suitable for a ballfield and suggested looking at other areas. She felt that traffic on Beaverdam Road, after all the construction of the new homes in the area, would be greatly increased.

Ms. Janet Cantwell, 111 Griffin Circle, spoke in opposition of the ballfield and felt the area should be left as is.

Mr. Ted Forbes, 53 Brookwood Road, felt that the traffic in the area would not be increased significantly and felt that a ballfield could be constructed with the cutting of very few trees.

Councilman Swicegood stated that he would look at all the information available and the comments made at this meeting before making a decision. He felt that if a ballfield is built is going to be built, he felt that lighting should be a factor considered.

Councilman Peterson felt that the neighborhood should not be divided over this issue and that he would digest all the information presented today to make the best decision he could.

Vice-Mayor Ellison felt the Council needed cost figures on all that was discussed today and felt that the Council needed to look at the overall City capital improvement plan for all recreation areas in the City. He also felt that the Asheville School Board should be contacted about their potential use of the property, as they are the owners of the property.

Councilwoman Field stated that not everyone was going to be pleased no matter what decision was reached and said she would study the information presented.

Councilman Moore said that he was concerned about how much environmental damage would be done to put in the ballfield and will that damage be outweighed by the need of more recreational facilities in the North Asheville area. He felt the Council needed more information on precisely what is proposed for the area. He had several questions about storm water runoff, how much dirt would have to be moved, test borings, etc. He felt the proposal as presented is very vague.

Councilman Worley stated that more detailed information was needed, i.e., site plan, grading specifications, other facilities in conjunction with the ballfield, etc.

It was the consensus of Council to requested the City Manager prepare a report to the Council to include, but not be limited to, a detailed site plan, grading specifications, other amenities if a ballfield is built.

Mayor Michalove stated that he would be using the 2010 Plan as a guide for his decision and that he would be looking at the environmental issues also.

C. BIDS FOR BITUMINOUS CONCRETE MATERIALS (ASPHALT)

City Manager Bean recommended awarding the bid to the only bidder, APAC-Carolina, Inc., Asheville, North Carolina, in the amount of $176,375, to furnish the City's annual requirement for bituminous concrete materials (asphalt). He said that purchases will be made on as needed basis only.

Councilman Moore moved to award the bid to the only bidder, APAC-Carolina, Inc., Asheville, North Carolina, in the amount of $176,375. This motion was seconded by Councilwoman Field and carried unanimously.

A copy of the Bid Summary is attached as Exhibit "A".

D. BIDS FOR 31 VEHICLES CONSISTING OF 15 POLICE VEHICLES, 4 SEDANS AND 12 TRUCKS

Due to some legal concerns of Vice-Mayor Ellison relative to pending litigation involving anti-lock brakes, it was the consensus of Council to postpone this bid action until February 18, 1992.

E. MOTION SCHEDULING A PUBLIC HEARING RELATIVE TO THE REZONING OF 750 BILTMORE AVENUE, 762 BILTMORE AVENUE, 760 BILTMORE AVENUE, 6 BRYSON STREET, 10

BRYSON STREET, AND THE WESTERN PORTION OF 766 BILTMORE AVENUE FROM HI HEAVY INDUSTRIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT; AND REZONING OF THE EASTERN PORTION OF 766 BILTMORE AVENUE FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT FOR MARCH 3, 1992.

Councilman Worley moved to schedule a public hearing relative to the rezoning of 750 Biltmore Avenue, 762 Biltmore Avenue, 760 Biltmore Avenue, 6 Bryson Street, 10 Bryson Street, and the western portion of 766 Biltmore Avenue from HI Heavy Industrial District to CH Commercial Highway District; and rezoning of the eastern portion of 766 Biltmore Avenue from R-3 Residential District to CH Commercial Highway District for March 3, 1992. This motion was seconded by Councilman Moore and carried unanimously.

V. CONSENT: None

VI. OTHER BUSINESS:

A. CLAIMS

City Manager Bean presented the following claims which were received by the City for the week of January 13-17, 1992: Donna Parham (Water); Melissa Garrison (Water); Helen Payne (Water); Betty Lytle (Streets); and Virginia Moss (Water).

He presented the following claims which were received by the City for the week of January 20-24, 1992: Season's Florist (Streets); Wayne Erbson (Water); Harvey Haywood (Water); Joe Vaughn (Fire); Prof. Opth. Lab. (Fire); and Jena Dockery (Water).

He presented the following claims which were received by the City for the week of January 27-31, 1992: Vicki Godfrey (Water); Rod Brockwell (Water); Marian McAdams (Water); Daryl Fox (Water); N.C. DOT (Water); Wilbur Biggs (Downtown Development); and Carl Baldasaro (Parks).

City Manager Bean said that these claims have been referred to the appropriate insurers for investigation.

B. LAWSUIT

City Manager Bean said that the City was served with a lawsuit on January 31, 1992, in which Carroll Williams was

the Plaintiff. The nature of the suit is an appeal from a Civil Service Board decision. This lawsuit has been referred to the appropriate legal counsel for action.

VII. ADJOURNMENT

Mayor Michalove adjourned the meeting at approximately 7:00 p.m.

William S. Malcolm
CITY CLERK

V. M. Michalove
MAYOR

BID SUMMARY — CITY OF ASHEVILLE — BID OPENED: JANUARY 15, 1992 - 3:00 P.M.

BID REQUEST NO. 393-92 — ANNUAL CONTRACT FOR BITUMINOUS CONCRETE MATERIALS (ASPHALT)

ASHEVILLE DIVISION APAC-CAROLINA, INC.

	UNIT PRICE	AMOUNT	DELIVERY	TERMS	BID DEPOSIT
SECTION I - STREET SURFACE PROGRAM 5000 Tons Bituminous Concrete Surface Course - Type I-2	$27.00/ton	$135,000.00	Our Pick Up	Net 30	
SECTION II - PAVEMENT & PATCHING PROGRAM - 1550 Tons Bituminous Concrete Materials - Type HB, Type F-I, Type H, Type I-1, and Type I-2		$41,375.00	Our Pick Up	Net 30	5% Bid Bond
TOTAL BID		$176,375.00			

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Tuesday - February 18, 1992 - 4:00 p.m.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Councilman Swicegood gave the invocation.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the February 4, 1992, City Council minutes.

I. PROCLAMATIONS:

A. RECOGNITION OF 1991 B*E*S*T EMPLOYEE.

City Manager Bean congratulated Ernie Hewitt of the Planning Department as being selected as the 1991 B*E*S*T Employee and presented him with a plaque. Mr. Hewitt saw a collision in which a pickup truck was overturned. Mr. Hewitt smelled gasoline, rushed to the overturned vehicle and pulled the occupant to safety.

B. RECOGNITION OF KATHY GLASS FOR RECEIVING THE 1991 DATA PROCESSING PROFESSIONAL OF THE YEAR AWARD.

City Manager Bean congratulated Kathy Glass of the Finance Department as being selected by the North Carolina Local Government Information Systems Association as the 1991 Data Processing Professional of the Year.

C. CERTIFICATE FOR CITY MANAGER INTERN BEN WAX.

City Manager Bean presented Ben Wax with a Certificate of Achievement for completing the City Manager's Internship Program for the Fall quarter of 1991.

D. PROCLAMATION PROCLAIMING THE WEEK OF FEBRUARY 23-29, 1992, AS "NATIONAL RETAIL BAKERS WEEK."

Mayor Michalove read a proclamation proclaiming the week of February 23-29, 1992, as "National Retail Bakers

Week" and presented Mr. Dotson Wright from Rollin' Pin Bakery with the proclamation. Mayor Michalove and members of the City Council thanked Mr. Wright for bringing punch and a beautifully decorated "City Hall" cake to the meeting.

II. PUBLIC HEARINGS:

A. **PUBLIC HEARING RELATIVE TO REZONING OF 773 EMMA ROAD FROM R-5 RESIDENTIAL DISTRICT TO LI LIGHT INDUSTRIAL DISTRICT.**

ORDINANCE NO. 1960 - ORDINANCE AMENDING ZONING OF PROPERTY LOCATED AT 773 EMMA ROAD (PIN 9629-20-92-6230)

Mayor Michalove opened the public hearing at 4:21 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Ms. Carol Alberice, Urban Planner, stated that on January 8, 1992, the Planning and Zoning Commission unanimously recommended approval of the rezoning request submitted by Mr. James Jones Jr. to rezone a 10.13 acre tract northeast of the intersection of Hazel Mill and Dryman Mountain Road and Emma Road from R-5 Residential District to LI Light Industrial District. She said that this property is located adjacent to the existing Emma Air Strip - Industrial Park currently zoned LI Light Industrial. She said that there were no comments of opposition to the rezoning request.

Mr. James Jones Jr., owner of the property, spoke in support of the rezoning request.

Mayor Michalove closed the public hearing at 4:31 p.m.

Mayor Michalove stated that Council has received a copy of the ordinance prior to the meeting and it would not be read in its entirety.

Vice-Mayor Ellison moved for the adoption of Ordinance No. 1960. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, Ordinance No. 1960 passed on its first reading.

Vice-Mayor Ellison moved to suspend the rules and proceed with the second reading of Ordinance No. 1960. This motion was seconded by Councilman Worley and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1960 passed on its second reading.

B. PUBLIC HEARING RELATIVE TO OVERMAN APARTMENTS GROUP DEVELOPMENT REVIEW.

Mayor Michalove opened the public hearing at 4:33 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Don Sherrill, Urban Planner, said that on January 8, 1992, the Planning and Zoning Commission recommended approval of the site plan. He said that this group development request is a proposal to locate a four-unit apartment building on three contiguous lots along Chatham Road. The site is approximately one-half acre in size and the terrain is sloping. The proposed site lies within the City's R-3 Medium Density Residential District. The proposed building includes two stories and a total gross floor area of 2800 square feet. The plan meets all parking, landscaping and setback requirements. Buffers will be placed along two sides of the project and existing trees along the rear portion of the lot are to be preserved. Water and sewer services are available and water flow and pressure are adequate for fire protection. The driveway entrance has been approved by the Public Works Department.

Mr. Sherrill stated that a number of neighboring residents have expressed opposition to the location of the apartment building on Chatham Road. He said that issues that have been expressed include increased traffic on a narrow winding roadway (Chatham), the possibility of additional on-street parking, problems with the existing water line, crowded conditions, removal of existing trees, fencing, and possible Section 8 Housing.

Mr. Gary Heubner, 167 Chatham Road, spoke in opposition to the location of the apartment building. He felt that the construction of this apartment building would open the door for many more multiple housing units. He was concerned about the increased traffic on Chatham Road and the possibility of additional on-street parking. He mentioned that Chatham Road already has problems with the water line in the street.

Mayor Michalove closed the public hearing at 4:33 p.m.

Councilwoman Field moved to accept the recommendation of the Planning and Zoning Commission and approve the site plan for Overman Apartments. This motion was seconded by Councilman Moore and carried unanimously.

C. **PUBLIC HEARING RELATIVE TO AMENDING RULE 3 OF THE RULES AND REGULATIONS OF THE CIVIL SERVICE COMMISSION OF THE CITY OF ASHEVILLE (PROMOTIONAL APPOINTMENTS).**

RESOLUTION NO. 92-8 - RESOLUTION AMENDING RULE 3 OF THE RULES AND REGULATIONS OF THE CIVIL SERVICE COMMISSION OF THE CITY OF ASHEVILLE.

Mayor Michalove opened the public hearing at 4:47 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Ms. Pam McGrayne, Personnel Director, stated that on December 3, 1991, the Asheville Civil Service Board adopted a revised Rule 3 (e) regarding promotional appointments in the Classified Service. She said the rule as revised allows former Classified Service employees to receive promotional consideration when they are no longer City employees at the time of appointment because of (1) a reduction in force under Civil Service Rule 6 or Section 35 of the City Personnel Policy; or (2) a permanent transfer to an outside organization under a contractual arrangement authorized by the City Council or City Manager.

Upon inquiry of Councilman Worley, Ms. McGrayne stated that the maximum time in which the consideration would be given would be two years.

Vice-Mayor Ellison expressed some concern about the amendment if it would unfairly impact current City employees.

Mayor Michalove closed the public hearing at 4:57 p.m.

Mayor Michalove stated that Council has received a copy of the resolution prior to the meeting and it would not be read in its entirety.

Councilman Moore moved for the adoption of Resolution No. 92-8. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 19 - PAGE 80

III. OLD BUSINESS:

A. **BIDS FOR 31 VEHICLES CONSISTING OF 15 POLICE VEHICLES, 4 SEDANS AND 12 TRUCKS (VARIOUS SIZES).**

City Manager Bean said that the Purchasing Director recommended awarding the bid to Parkway Chevrolet, Inc., Asheville, North Carolina, in the amount of $295,650.54; Matthews Ford Inc., Asheville, North Carolina, in the amount of $17,799.84; Harry's Cadillac Pontiac GMC, Asheville, North Carolina, in the amount of $15,399.00; and Carolina Truck and Body Company, Asheville, North Carolina, in the amount of $63,960.00.

City Manager Bean said that some concerns were expressed by members of Council relative to pending litigation involving the anti-lock brakes on the Chevrolet police vehicles. He said that City Attorney Slawter and Police Chief Beavers have reviewed all the information available and have found nothing to date to disqualify the lowest bidder (Parkway Chevrolet Inc.) from being awarded the bid for the 15 police vehicles.

City Attorney Slawter stated that State law requires that bids be awarded "to the lowest responsible bidder or bidders, taking into consideration quality, performance and the time specified in the proposals for the performance of the contract." Although this language does not in all cases require that a bid be awarded to the lowest bidder, there must be significant evidence to justify awarding the bid to someone else. There is no statutory interpretation in the case law of North Carolina setting specific standards as to when such a bid may be rejected. In deciding whether to accept or reject a bid, the City Council does have some discretion, but that discretion is limited, and a bid cannot be arbitrarily rejected. If the lowest bid were rejected, and that bidder challenged that rejection in court, the City could be in a tough position if they did not have significant evidence to support the basis for the rejection.

He said that in the case of the automobile bids currently under consideration by the City Council, questions have been raised regarding the safety of the Chevrolet automobiles. The only information that he had been able to locate on this issue as an article which appeared in the December 20, 1991, issue of AutoWeek. He said the problem is described as a lack of training, rather than problems with the anti-lock brakes themselves. That article indicates that police officers are not used to the anti-lock brakes, and that some training should be provided to them.

He said that he has not seen any information that would lead him to believe that there is a legal basis for rejecting the bids on the Chevrolet automobiles. It does appear, however, that the officers who will be driving the cars should be provided training in the operation of the anti-lock brake systems.

He said that he has talked to Ed Robinson with the Buncombe County garage and he said that neither the County nor the State Highway Patrol had encountered any problems with the Chevrolet cars.

Vice-Mayor Ellison stated that there is no information available to them to show that the Chevrolet automobiles do not meet the specifications. He quoted "9C1 Police Package" Caprice sedan - locks up nearly 60 percent of the nation's cop car business" from the AutoWeek article.

Police Chief Beavers stated that he has spoken with the Sheriff's Department, the Buncombe County Shop and the Highway Patrol and they have not encountered any problems with the Chevrolet cars. He said that the awarding of these bids appeared to be a good police package. He said that he has obtained a short "informational" video tape on how to use the anti-lock brakes which all officers will be required to watch. He said that he has found nothing about the Chevrolet vehicles that is unsafe.

Police Chief Beavers explained the policy on high speed chases in the City, upon inquiry of Councilwoman Field.

Mr. Ronnie Davis, spokesman for the police officers, stated that the Fords without anti-lock brake systems stopped quicker than the Chevrolets with the anti-lock brake systems. He felt that the City would have to incur the expense of training the officers on the use of anti-lock brakes. He stated several problems with the Chevrolets, i.e., problems with interference with radar, heaviness of the doors, no place in the car for support, and the possibility of stocking parts. He felt that there would also be a problem for the officers when they have to change cars from day to day - one day driving a Ford with no anti-lock brake system and then the next day driving a Chevrolet with an anti-lock brake system.

Ms. Leni Sitnick felt that the officers should have the best cars available.

Councilman Moore moved to go into executive session at 5:30 p.m. for 15 minutes. This motion was seconded by Councilwoman Field and carried unanimously.

Council reconvened the meeting at 6:00 p.m.

Councilman Moore moved to accept the recommendation of the Purchasing Director in awarding the bids as follows: Parkway Chevrolet, Inc., Asheville, North Carolina, in the

amount of $295,650.54; Matthews Ford Inc., Asheville, North Carolina, in the amount of $17,799.84; Harry's Cadillac Pontiac GMC, Asheville, North Carolina, in the amount of $15,399.00; and Carolina Truck and Body Company, Asheville, North Carolina, in the amount of $63,960.00. A copy of the complete bid summary is attached as Exhibit "A".

IV. NEW BUSINESS:

A. CONSIDERATION OF A MOTION TO APPROVE THE COMMUNITY DEVELOPMENT BLOCK GRANT PRIORITY RATING SYSTEM FOR FISCAL YEAR 1993.

Ms. Annette Coleman, Chairman of the Housing and Community Development Committee, stated that during March, the City will be receiving applications from agencies desiring to receive Community Development Block Grant ("CDBG") funding for the coming year. She said the City will be receiving $1,342,000 from HUD through the CDBG program for the year beginning July 1, 1992. The funding must be used for activities that benefit low and moderate income persons or aid in the prevention or elimination of slums and blight. At least 70% of the funding must be used for activities that benefit low and moderate income persons. She said the Housing and Community Development Committee has recommended approval of the same priority rating system used last year. She said this system places the highest priority on activities designed to improve or expand the affordable housing stock of the City.

Mr. Larry Holt, representative of the Housing Authority of the City of Asheville, explained the procedure the Housing Authority utilizes when illegal activity occurs in Housing Authority units.

Upon inquiry of Councilman Worley, Vice-Mayor Ellison (member of the Housing and Community Development Committee) said that one reason for the 40% priority rating on improving existing substandard housing is because it is less expensive to fix a house than build a new one.

Councilman Moore moved to approve the Priority Rating System for CDBG applications for Fiscal Year 1993 that has been recommended by the Housing and Community Development Committee of the City of Asheville. This motion was seconded by Councilman Peterson and carried unanimously.

B. CONSIDERATION OF A MOTION OF SUPPORT TO FORM CONSORTIUM WITH BUNCOMBE COUNTY AND OTHER UNITS OF LOCAL GOVERNMENT THEREIN FOR THE PURPOSE OF APPLYING FOR HOUSING FUNDS THROUGH THE HOME INVESTMENT PARTNERSHIP PROGRAM.

Mayor Michalove stated this request will be postponed until the March 3, 1992, meeting.

C. **RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE A CONTRACT AND ANY CHANGE ORDER WITHIN THE BUDGETED AMOUNT WITH HOBSON CONSTRUCTION COMPANY, INC., FOR THE PROJECT KNOWN AS PEBBLE CREEK CONDOMINIUMS CREEK BANK STABILIZATION PROJECT.**

Mayor Michalove stated that this resolution will be deleted from consideration.

D. **RESOLUTION NO. 92-9 - RESOLUTION OF THE CITY OF ASHEVILLE, NORTH CAROLINA, PROVIDING FOR THE ISSUANCE OF $19,000,000 WATER BONDS, SERIES 1992 OF THE CITY OF ASHEVILLE, NORTH CAROLINA.**

City Manager Bean said that voters approved a $26,000,000 bond referendum on November 5, 1991 and that all preliminary steps required by the Local Government Commission have been accomplished. He said that this resolution establishes the legal framework for the bonds to be sold by the Local Government Commission.

Mayor Michalove stated that Council has received a copy of the resolution prior to the meeting and it would not be read in its entirety.

Councilman Worley moved for the adoption of Resolution No. 92-9. This motion was seconded by Councilman Moore and carried unanimously.

RESOLUTION BOOK NO. 19 - PAGE 82

E. **RESOLUTION NO. 92-10 - RESOLUTION STATING THE INTENT OF THE CITY OF ASHEVILLE TO CONSIDER THE ANNEXATION OF AN AREA KNOWN AS THE BEAVERDAM RUN ANNEXATION AREA AND FIXING THE DATE OF A PUBLIC HEARING ON THE QUESTION OF ANNEXATION**

City Manager Bean said that the resolution of intent to annex Beaverdam Run Condominiums is the first step that will begin the annexation process that could be concluded by the end of June. Following the adoption of a resolution of intent, the staff will prepare a plan of services that will need to be approved by the City Council. At that point in time, the City staff will hold a community meeting to go through the process of annexation and describe the plan of

services with the residents of the community. This will take place prior to the actual public hearing with the residents having an opportunity to come before the City Council to tell their feelings about annexation.

He said the reason why Beaverdam Run is being considered at this point in time is because in 1988 the City Council adopted an ordinance annexing a large portion of the Beaverdam Area. Initially Beaverdam Run was included in this annexation, but had to be excluded based on a lack of density. Many of the residents in Beaverdam accused the City of purposely excluding this condominium area for some political reasons. In reality, based on our detailed investigation, Beaverdam Run had not developed to an extent that it met the statutes. This was articulated in meetings to the public, and the Council stated that as soon as Beaverdam Run was developed to meet the statutes that they would proceed with the annexation of this area. With this phase of annexation, the proposed Beaverdam annexation program will be completed as initially proposed by the City.

Ms. Patty Tallerday, Senior Planner, described the annexation area by use of a map. She said that the annexation area contains the Beaverdam Run Condominium Project (103 condominiums) and 11 residences along the northside of Beaverdam Road.

Upon inquiry of Councilman Peterson relative to notice to the affected property owners, Ms. Tallerday said that (1) the City will put a notice in the newspaper with a description and a map; (2) will also notify every property owner by first class mail with a map included; and (3) hold a community meeting to go through the plan of services for the area.

Mayor Michalove stated that Council has received a copy of the resolution prior to the meeting and it would not be read in its entirety.

Councilman Moore moved for the adoption of Resolution No. 92-10 setting the public hearing for April 7, 1992, at 4:00 p.m. in the Banquet Room of the Asheville Civic Center. This motion was seconded by Councilwoman Field and carried on a 5-2 vote, with Councilmen Peterson and Swicegood voting "no".

RESOLUTION BOOK NO. 19 - PAGE 91

F. CONSIDERATION OF AGREEMENT WITH CAROLINA POWER & LIGHT COMPANY FOR UNDERGROUND UTILITY LINES FOR THE PATTON AVENUE REHABILITATION PROJECT.

City Manager Bean said that Carolina Power & Light Company has indicated that they are willing to expend a considerable sum of money as part of the Patton Avenue Rehabilitation Project so long as the City is willing to provide a limited amount of services.

He said the City has been asked to coordinate with APAC the opening of the trench for the placement of utility lines and to then fill the trench and provide a utility patch. The City received a quote from APAC to do this work, and they gave the City a price of $200,000. The City then investigated the possibility of using City crews and determined that the time it would take for City crews would seriously impair the City's ability to provide other services throughout the City.

He said we then approached CP&L and asked if they could get a quote from their subcontractor, who provides this service throughout Buncombe County. CP&L has received a quote through M.B. Haynes to do all of the trenching at a cost of $95,000. The City would then be responsible for filling the trench and providing for the patch and for other coordination tasks. He felt that this is certainly something that is within our capability to do. In return for this expense and work on the part of the City, CP&L is willing to expend $230,000 to complete the underground project on Patton Avenue.

Councilman Worley commended CP&L for participating in this Project with the City.

Vice-Mayor Ellison moved to authorize the City Manager to execute an agreement with Carolina Power & Light Company providing for the relocation of utilities in the area of the Patton Avenue Resurfacing Project. This motion was seconded by Councilman Moore and carried unanimously.

G. ORDINANCE NO. 1961 - BUDGET ORDINANCE AMENDMENT RELATIVE TO CAPITAL PROJECTS.

City Manager Bean said that this budget amendment is to establish appropriations in the General Capital Projects Fund in order to proceed with projects that were budgeted in the General Capital Fund. It will also establish an appropriation for capital in the Information Services Fund to allow Information Services to purchase needed equipment.

Mayor Michalove stated that Council has received a copy of the ordinance prior to the meeting and it would not be read in its entirety.

Councilman Moore moved for the adoption of Ordinance No. 1961. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, Ordinance No. 1961 passed on its first and final reading.

ORDINANCE BOOK NO. 13 - PAGE 29

V. CONSENT:

A. RESOLUTION NO. 92-11 - RESOLUTION AMENDING SECTION 21 OF THE CITY OF ASHEVILLE PERSONNEL POLICY (PROMOTIONAL APPOINTMENTS).

Summary: On December 3, 1991, the Asheville Civil Service Board adopted a revised Rule 3 (e) regarding promotional appointments in the Classified Service. The rule as revised allows former Classified Service employees to receive promotional consideration when they are no longer City employees at the time of appointment because of (1) a reduction in force under Civil Service Rule 6 or Section 35 of the City Personnel Policy; or (2) a permanent transfer to an outside organization under a contractual arrangement authorized by the City Council or City Manager. This Rule was approved by Resolution No. 92-8, therefore, Section 21 of the City Personnel Policy must also be revised to reflect this change.

RESOLUTION BOOK NO. 19 - PAGE 94

B. RESOLUTION NO. 92-12 - RESOLUTION OF INTENT TO CLOSE 15-FOOT ALLEY ON HAMPDEN, BEVERLY AND KENSINGTON ROADS IN THE CITY OF ASHEVILLE, NORTH CAROLINA, AND SETTING A PUBLIC HEARING FOR MARCH 17, 1992.

RESOLUTION BOOK NO. 19 - PAGE 96

C. RESOLUTION NO. 92-13 - RESOLUTION REAPPOINTING MEMBERS TO THE BOARD OF ADJUSTMENT.

Summary: The terms of Ernest Melin and Ellen Lyda, as members of the Board of Adjustment, expired on January 21, 1992. This resolution will reappoint Mr. Melin and Ms. Lyda for three year terms each, terms expiring on January 21, 1995.

RESOLUTION BOOK NO. 19 - PAGE 98

D. RESOLUTION NO. 92-14 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE-BUNCOMBE COMMUNITY RELATIONS COUNCIL.

Summary: The term of Dwight Mullen, as a member of the Asheville-Buncombe Community Relations Council, expired on December 31, 1991. This resolution will appoint Mr. Gary Ashburn for a term of three years, term expiring on December 31, 1994.

RESOLUTION BOOK NO. 19 - PAGE 99

E. **RESOLUTION NO. 92-15 - RESOLUTION REQUESTING THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION TO REMOVE CERTAIN STREETS IN THE BEAVERDAM ANNEXATION AREA FROM THE STATE STREET SYSTEM AND PLACE THEM UPON THE CITY STREET SYSTEM.**

Summary: The Beaverdam annexation area became a part of the City on May 31, 1991. These roads need to be taken off the State Street System and placed on the City Street System. The streets can be claimed on the City's street mileage report for 1992 and will receive Powell Bill funds from the State.

RESOLUTION BOOK NO. 19 - PAGE 100

F. **RESOLUTION NO. 92-16 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A MUNICIPAL AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR THE BRIDGE INSPECTION PROGRAM.**

Summary: The Federal Highway Administration Highway Act requires bridges which are public to be inspected every two years. The resolution will authorize the Mayor to execute a municipal agreement with the North Carolina Department of Transportation to have the City's bridges inspected throughout their program. The City has used this process to accomplish the required bridge inspections since 1980.

RESOLUTION BOOK NO. 19 - PAGE 102

Councilman Worley moved for the approval of the consent agenda. This motion was seconded by Councilwoman Field and carried unanimously.

VI. OTHER BUSINESS:

A. **ORDINANCE NO. 1962 - ORDINANCE AMENDING ORDINANCE NO. 1884 REGARDING THE COMPOSITION OF THE ASHEVILLE DOWNTOWN COMMISSION.**

City Attorney Slawter said that this amendment changes the composition of the Commission as follows (underlining denotes change):

(1) Two members of City Council appointed by the Council.

(2) Two members of the Buncombe County Board of Commissioners appointed by the Board.

(3) Seven members appointed by the City Council from the private sector of the community, one of which shall be the President of the Asheville Downtown Association. Provided, however, that in the event that an at-large member shall during his or her term be elected President of the Asheville Downtown Association, an alternate member shall be appointed by the City Council to fill the term that would otherwise have been held by the President of the Asheville Downtown Association.

(4) Chairman appointed by the City Council from the community.

Mayor Michalove stated that Council has received a copy of the ordinance prior to the meeting and it would not be read in its entirety.

Vice-Mayor Ellison moved for the adoption of Ordinance No. 1962. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, Ordinance No. 1962 passed on its first reading.

Councilman Worley moved to suspend the rules and proceed to the second reading of Ordinance No. 1962. This motion was seconded by Councilman Moore and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1962 passed on its second reading.

Councilman Worley moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1962. This motion was seconded by Councilman Moore and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1962 passed on its third and final reading.

ORDINANCE BOOK NO. 13 - PAGE 33

B. RESOLUTION NO. 92-17 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE DOWNTOWN COMMISSION

City Manager said that this resolution will (1) reappoint Ms. Barbara Field for a two year term, term expiring December 31, 1993; (2) appoint Ms. Dee Williams (who is replacing Ms. Claudia Tucker) for a two year term, term expiring December 31, 1993; and (3) appoint Mr. Theo Pritchett to fill the term that would otherwise have been held by the President of the Asheville Downtown Association (since Barry Olen was elected President of the Asheville Downtown Association) for a one year term, term expiring December 31, 1992.

Mayor Michalove stated that Council has received a copy of the resolution prior to the meeting and it would not be read in its entirety.

Councilwoman Field moved for the adoption of Resolution No. 92-17. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 19 - PAGE 103

C. **GROUP DEVELOPMENT REVIEW - MEMORIAL MISSION HOSPITAL PARKING DECK EXPANSION**

Mr. Don Sherrill, Urban Planner, said that this group development request involves an expansion to the East Parking Deck which is currently under construction on the Memorial Mission Campus, along Biltmore Avenue. The East Parking Deck was approved by City Council through the group development process in January of 1991. The original approval included a variance on the front setback along Biltmore Avenue. The proposal included five levels of parking with 605 parking spaces.

He said the current group development request involves an addition to the original parking deck proposal. The expansion would continue the five levels of parking along Doctors Drive. The expansion includes approximately 300 parking spaces. No variances are required for the expansion. All setback and landscaping standards have been satisfied.

He said that at the Planning and Zoning Commission's meeting on February 5, 1992, they voted to approve the group development request for the East Parking Deck Expansion subject to two contingencies:

(1) Receipt of a letter from the Asheville Fire Marshal, stating that adequate flow and pressure are available for fire protection.

(2) Approval of a driveway permit for the Doctor's Drive entrance by the City Public Works Department.

He said that both of the above approvals are in the process and should be completed shortly. He also stated that no public comment has been received regarding this project.

It was the consensus of Council to postpone the action on this group development request until March 3, 1992, in order to give the staff time to notify active neighborhood groups (in particular the Kenilworth Neighborhood Association).

D. PETITION FROM EDGEWOOD NEIGHBORHOOD ASSOCIATION

Mayor Michalove presented a petition which he received to the City Clerk from the Edgewood Neighborhood Association with regard to the safety of sidewalks.

E. BEAVER LAKE HEIGHTS SUBDIVISION

City Manager Bean said that the homeowners of Beaver Lake Heights Subdivision have asked for an amendment to the subdivision approval to delete the residential sprinkler requirement due to an improvement in the public water supply system in the subdivision. In order to adequately notify the public of this amendment, the City Manager asked for a public hearing to be set.

Vice-Mayor Moore moved to set a public hearing on March 3, 1992, at the Hillcrest Community Center, at 4:00 p.m. to consider approval of an amendment to the subdivision plat for Beaver Lake Heights Subdivision. This amendment was seconded by Councilman Moore and carried unanimously.

F. LENI SITNICK

Ms. Leni Sitnick asked the Council (1) to consider using both sides of the paper for printing of agendas; (2) to use unbleached recycled paper for printing; (3) for sidewalks on Weaver Boulevard (between Merrimon Avenue and Broadway); (4) to appoint a member of the Tree/Greenway Commission on the Planning and Zoning Commission and the Board of Adjustment; (5) not to overlap the City Council meetings with the meetings held by the Buncombe County Board of Commissioners; and (6) to advertise upcoming board and commission appointment vacancies in the proposed City Page.

G. CLAIMS

City Manager Bean stated that the following claims were received by the City of Asheville during the week of February 3-7, 1992: Tony Riels (Water); Marjorie S. Harwood (Water); LaPescella Ashford (Water); and Alice Wynhoff (Water).

He also stated that the following claims were received by the City of Asheville during the week of February 10-14, 1992: Tony Reed (Water); Southern Bell (Water) and Cathy Payton (Water).

He said that these claims have been referred to the appropriate insurers for investigation.

H. LAWSUIT

City Manager Bean said that a lawsuit has been received by the City of Asheville on February 14, 1992, in which Alan E. O'Donnell is the Plaintiff. He said that this lawsuit has been referred to the appropriate legal counsel for action.

VII. ADJOURNMENT

Mayor Michalove adjourned the meeting at 6:50 p.m.

William S. Wolcott
CITY CLERK

W. M. Michalove
MAYOR

BID SUMMARY

CITY OF ASHEVILLE
PURCHASING DIVISION

BID OPENED: FRIDAY, JANUARY 17, 1992 3:00 P.M.

BID REQUEST NO. 392-92 AUTOMOBILES AND TRUCKS FOR CITY OF ASHEVILLE

ITEM NO.		PARKWAY CHEVROLET INC. ASHEVILLE, N. C.	MATTHEWS FORD INC. ASHEVILLE, N. C.	KEN WILSON FORD INC. CANTON, N. C.
A. (15) Police Vehicles - Patrol (Blue & White) for Police Dept.	MAKE:	1992 Chevrolet	1992 Ford	1992 Ford
	MODEL:	1BL19 Caprice	P72 Crown Victoria	P72 Crown Victoria
	UNIT COST:	$12,405.74	$12,624.00	$12,882.00
	AMOUNT:	$186,086.10	$189,360.00	$193,230.00
	DELIVERY:	60 to 75 Days	60 to 120 Days	90 Days
	EPA MPG CITY:	17	18	18
	ENERGY EFF. COST* (EA)	$15,935.15	$15,957.33	$16,215.33
B.1. (3) Full Size Sedans for the Police Dept.	MAKE:	1992 Chevrolet		1992 Ford
	MODEL:	1BL19 Caprice		P72 Crown Victoria
	UNIT COST:	$10,708.80		$12,217.00
	AMOUNT:	$32,126.40	NO BID	$36,651.00
	DELIVERY:	60 to 75 Days		90 Days
	EPA MPG CITY:	17		18
	ENERGY EFF. COST* (EA)	$14,238.21		$15,550.33
B.2. (1) Full Size Sedan for the Police Dept.	MAKE:	1992 Chevrolet		1992 Ford
	MODEL:	1BL19 Caprice		P72 Crown Victoria
	AMOUNT:	$11,143.40	NO BID	$12,791.00
	DELIVERY:	60 to 90 Days		90 Days
	EPA MPG CITY:	17		III
	ENERGY EFF. COST* (EA)	$14,672.81		$16,124.33

Exhibit A

BID REQUEST NO. 392-92 — AUTOMOBILES AND TRUCKS FOR CITY OF ASHEVILLE

ITEM NO.		PARKWAY CHEVROLET INC. ASHEVILLE, N. C.	MATTHEWS FORD INC. ASHEVILLE, N. C.	KEN WILSON FORD INC. CANTON, N. C.
C. (2) Four Wheel Drive, Utility Type Truck, Fully Enclosed for the Fire Dept.	MAKE:	1992 Chevrolet	1992 Ford	1992 Ford
	MODEL:	CT10516 S10 Blazer	U24 Explorer	U24 Explorer
	UNIT COST:	$14,419.70	$17,269.00	$17,357.00
	AMOUNT:	$28,839.40	$34,538.00	$34,714.00
	DELIVERY:	60 to 75 Days	60 Days	45 Days
	EPA MPG CITY:	16	15	15
	ENERGY EFF. COST* (EA)	$18,169.70	$21,269.00	$21,357.00
D. (1) Four Wheel Drive, Utility TYpe Truck, Fully Enclosed for the Water Engineering	MAKE:	1992 Chevrolet	1992 Ford	1992 Ford
	MODEL:	CT10506 S10 Blazer	U34 Explorer	U34 Explorer
	AMOUNT:	$15,460.92	$17,564.00	$17,817.00
	DELIVERY:	60 to 75 Days	60 Days	45 Days
	EPA MPG CITY:	16	15	15
	ENERGY EFF. COST* (EA)	$19,210.92	$21,564.00	$21,817.00
E. (1) Four Wheel Drive, Utility Type Truck, Fully Enclosed for the Public Works Dept. Street Division	MAKE:	1992 Chevrolet	1992 Ford	1992 Ford
	MODEL:	CT10506 S10 Blazer	U34 Explorer	U34 Explorer
	AMOUNT:	$15,217.92	$17,653.00	$17,999.00
	DELIVERY:	60 to 75 Days	60 to 90 Days	45 Days
	EPA MPG CITY:	16	15	15
	ENERGY EFF. COST* (EA)	$18,967.92	$21,653.00	$21,999.00
F. (1) 1/2 Ton Heavy Duty Pickup Truck for the Public Works Dept., Sanitation Div.	MAKE:	1992 Chevrolet	1992 Ford	1992 Ford
	MODEL:	CC10703 C10	F-15 F150	F15 - F150
	AMOUNT:	$10,918.41	$8,899.92	$8,949.00
	DELIVERY:	60 to 75 Days	60 to 90 Days	45 Days
	EPA MPG CITY:	17	15	15
	ENERGY EFF. COST* (EA)	$14,447.82	$12,899.92	$12,949.00

BID REQUEST NO. 392-92 — AUTOMOBILES AND TRUCK FOR CITY OF ASHEVILLE

ITEM NO.		PARKWAY CHEVROLET INC. ASHEVILLE, N. C.	MATTHEWS FORD INC. ASHEVILLE, N. C.	KEN WILSON FORD INC. CANTON, N. C.
G. (1) 1/2 Ton Heavy Duty Pickup Truck for the Public Works Department, Street Division	MAKE:	1992 Chevrolet	1992 Ford	1992 Ford
	MODEL:	CC10703 C10	F-15 F150	F15 - F150
	AMOUNT:	$10,918.41	$8,899.92	$8,949.00
	DELIVERY:	60 to 75 Days	60 to 90 Days	45 Days
	EPA MPG CITY:	17	15	15
	ENERGY EFF. COST* (EA)	$14,447.82	$12,899.92	$12,949.00
H. (3) 1/2 Ton Heavy Duty Pickup Truck for the Police Dept., Animal Control Division	MAKE:	1992 Chevrolet	1992 Ford	1992 Ford
	MODEL:	CC10903 C10	F-15 F150	F15 - F150
	UNIT COST:	$9,397.34	$8,995.92	$9,149.00
	AMOUNT:	$28,192.02	$26,987.76	$27,447.00
	DELIVERY:	60 to 75 Days	60 to 90 Days	45 Days
	EPA MPG CITY:	17	15	15
	ENERGY EFF. COST* (EA)	$12,926.75	$12,995.92	$13,149.00
I. (1) 1/2 Ton Heavy Duty Pickup Truck for the Parks and Recreation Dept.	MAKE:	1992 Chevrolet	1992 Ford	1992 Ford
	MODEL:	CC10903 C10	F-15 F150	F15 - F150
	AMOUNT:	$8,465.00	$9,099.92	$9,149.00
	DELIVERY:	60 to 75 Days	60 to 90 Days	45 Daus
	EPA MPG CITY:	17	15	15
	ENERGY EFF. COTS* (EA)	$11,994.41	$13,099.92	$13,149.00

BID REQUEST NO. 392-92 — AUTOMOBILES AND TRUCKS FOR THE CITY OF ASHEVILLE

ITEM NO.		PARKWAY CHEVROLET INC. ASHEVILLE, N. C.	MATTHEWS FORD INC. ASHEVILLE, N. C.	KEN WILSON FORD INC. CANTON, N. C.
J. (1) Diesel Powered Cab & Chassis with Dump Body for Parks and Recretaion Dept.	TRUCK MAKE/MODEL: DUMP BODY/MODEL: MFGR.: AMOUNT: DELIVERY:	NO BID	1992 Ford F-800 AA-144-C Double A Body Builders $34,497.00 90 to 120 Days	1992 Ford F-800 12' - 6 Cubic Yard Double A Body Company $33,496.00 90 Days
K. (1) Diesel Powered Cab & Chassis for the Fleet Management Division	MAKE: MODEL: AMOUNT: DELIVERY:	NO BID	1992 Ford LN8000 $32,151.85 90 to 120 Days	1992 Ford F-800 $30,399.00 90 Days
TERMS: BID DEPOSIT:		Net 30 5% Bid Bond	Net 30 5% Official Check	Net 30 5% Bid Bond

*REC: BID PRICE + 60,000 X $1.00 gal.

Bids Returned: Improper Bid Deposit - Southco Industries, Shelby, North Carolina
No Bid Deposit - Curtis Dodge, Asheville, North Carolina and Liberty Chrysler Plymouth, Asheville, North Carolina

CITY OF ASHEVILLE
PURCHASING DIVISION

BID SUMMARY — BID OPENED: FRIDAY, JANUARY 17, 1992 3:00 P.M.

BID REQUEST NO. 392-92 — AUTOMOBILES AND TRUCKS FOR CITY OF ASHEVILLE

ITEM NO.		HARRY'S CADILLAC PONTIAC GMC ASHEVILLE, N. C.	CAROLINA TRUCK & BODY COMPANY INC. ASHEVILLE, N. C.
A. (15) Police Vehicles - Patrol (Blue & White) for Police Dept.	MAKE: MODEL: UNIT COST: AMOUNT: DELIVERY: EPA MPG CITY: ENERGY EFF. COST* (EA)	NO BID	NO BID
B.1. (3) Full Size Sedans for the Police Dpet.	MAKE: MODEL: UNIT COST: AMOUNT: DELIVERY: EPA MPG CITY: ENERGY EFF. COST* (EA)	NO BID	NO BID
B.2. (1) Full Size Sedan for the Police Dept.	MAKE: MODEL: AMOUNT: DELIVERY: EPA MPG CITY: ENERGY EFF. COST* (EA)	NO BID	NO BID

BID REQUEST NO. 392-92 — AUTOMOBILES AND TRUCKS FOR CITY OF ASHEVILLE

ITEM NO.		HARRY'S CADILLAC PONTIAC GMC ASHEVILLE, N. C.	CAROLINA TRUCK & BODY COMPANY INC. ASHEVILLE, N. C.
C. (2) Four Wheel Drive, Utility Type Truck, Fully Enclosed for the Fire Dept.	MAKE:	1992 GMC	
	MODEL:	TT10516	
	UNIT COST:	$15,199.00	
	AMOUNT:	$30,398.00	NO BID
	DELIVERY:	90 Days	
	EPA MPG CITY:	16	
	ENERGY EFF. COST* (EA)	$18,949.00	
D. (1) Four Wheel Drive, Utility Type Truck, Fully Enclosed for the Water Dept, Engineering Div.	MAKE:	1992 GMC	
	MODEL:	TT10506	
	AMOUNT:	$15,399.00	NO BID
	DELIVERY:	90 Days	
	EPA MPG CITY:	16	
	ENERGY EFF. COST* (EA)	$19,149.00	
E. (1) Four Wheel Drive, Utility Type Truck, Fully Enclosed for the Public Works Dept. Street Division	MAKE:	1992 GMC	
	MODEL:	TT10506	
	AMOUNT:	$15,675.00	NO BID
	DELIVERY:	90 Days	
	EPA MPG CITY:	16	
	ENERGY EFF. COST* (EA)	$19,425.00	
F. (1) 1/2 Ton Heavy Duty Pickup Truck for the Public Works Dept., Sanitation Div.	MAKE:	1992 GMC	
	MODEL:	TC10703	
	AMOUNT:	$11,225.00	NO BID
	DELIVERY:	90 Days	
	EPA MPG CITY:	16	
	ENERGY EFF. COST* (EA)	$14,975.00	

BID REQUEST NO. 392-92 — AUTOMOBILES AND TRUCK FOR CITY OF ASHEVILLE

ITEM NO.		HARRY'S CADILLAC PONTIAC GMC. ASHEVILLE, N. C.	CAROLINA TRUCK & BODY COMPANY INC. ASHEVILLE, N. C.
G. (1) 1/2 Ton Heavy Duty Pickup Truck for the Public Works Department, Street Division	MAKE:	1992 GMC	NO BID
	MODEL:	TC10703	
	AMOUNT:	$11,225.00	
	DELIVERY:	90 Days	
	EPA MPG CITY:	16	
	ENERGY EFF. COST* (EA)	$14,975.00	
H. (3) 1/2 Ton Heavy Duty Pickup Truck for the Police Dept., Animal Control Division	MAKE:	1992 GMC	NO BID
	MODEL:	TC10903	
	AMOUNT:	$9,475.00	
	DELIVERY:	90 Days	
	EPA MPG CITY:	16	
	ENERGY EFF. COST* (EA)	$13,225.00	
I. (1) 1/2 Ton Heavy Duty Pickup Truck for the Parks and Recreation Dept.	MAKE:	1992 GMC	NO BID
	MODEL:	TC10903	
	AMOUNT:	$8,899.00	
	DELIVERY:	90 Days	
	EPA MPG CITY:	16	
	ENERGY EFF. COST* (EA)	$12,649.00	

BID REQUEST NO. 392-92		AUTOMOBILES AND TRUCKS FOR THE CITY OF ASHEVILLE	
ITEM NO.		HARRY'S CADILLAC PONTIAC GMC ASHEVILLE, N. C.	CAROLINA TRUCK & BODY COMPANY INC. ASHEVILLE, N. C.
J. (1) Diesel Powered Cab & Chassis with Dump Body for Parks and Recretaion Dept.	TRUCK MAKE/MODEL: DUMP BODY/MODEL: MFGR.: AMOUNT: DELIVERY:	NO BID	1992 GMC TC7H042 Special Carolina Truck & Body Company $32,980.00 120 Days
K. (1) Diesel Powered Cab & Chassis for the Fleet Management Division	MAKE: MODEL: AMOUNT: DELIVERY:	NO BID	1992 GMC TC7H042 $30,980.00 120 Days
TERMS:		Net 30	Net 30
BID DEPOSIT:		5% Bid Bond	5% Bid Bond

*EEC: BID PRICE ÷ 60,000 X $1.00 gal.

Bids Returned: Improper Bid Deposit - Southco Industries, Shelby, North Carolina
No Bid Deposit - Curtis Dodge, Asheville, North Carolina and Liberty Chrysler Plymouth, Asheville, North Carolina

Tuesday - March 3, 1992 - 4:00 p.m.
Hillcrest Community Center

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Councilman Worley gave the invocation.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the February 18, 1992, City Council minutes.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING MARCH 3, 1992, AS "USS ASHEVILLE PG-21 MEMORIAL DAY"

Mayor Michalove proclaimed March 3, 1992, as "USS Asheville PG-21 Memorial Day."

B. PROCLAMATION PROCLAIMING THE CITY OF ASHEVILLE'S APPRECIATION TO THE WESTERN NORTH CAROLINA JEWISH FEDERATION FOR THE DONATION OF $1,500 FOR THE PLANTING OF TREES IN THE MARTIN LUTHER KING JR. PARK

Mayor Michalove proclaimed the City of Asheville's appreciation to the Western North Carolina Jewish Federation for the donation of $1,500 for the planting of trees in the Martin Luther King Jr. Park.

He presented the proclamation to Mr. Richard Laibson, President of the North Carolina Jewish Federation, who felt that this donation would help cement the relationship between the Jewish community and the Black community.

C. RESOLUTION NO. 92-18 - RESOLUTION WELCOMING THE SOUTHERN BASKETBALL CONFERENCE

Mayor Michalove read the resolution welcoming the Southern Basketball Conference to Asheville.

Mr. Wright Waters, Executive Chief Officer of the Southern Conference, and Mr. Honeycutt, thanked the Council for their support of the Southern Conference. They gave sweatshirts to Hillcrest Community Center Director John Hayes to distribute amongst the children in the community and passed out keychains to the City Council.

Mayor Michalove said that members of Council have been furnished with copies of the resolution and it would not be read in its entirety.

Upon motion of Vice-Mayor Ellison, seconded by Councilman Moore, Resolution No. 92-18 passed unanimously.

RESOLUTION BOOK NO. 19 - PAGE 104

D. PROCLAMATION PROCLAIMING THE WEEK OF MARCH 9-15, 1992, AS "VOLLEYBALL WEEK"

Mayor Michalove proclaimed March 9-15, 1992, as "Volleyball Week" and presented to proclamation to Donny Luke of the Asheville Volleyball Club.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO THE REZONING OF 750 BILTMORE AVENUE, 762 BILTMORE AVENUE, 760 BILTMORE AVENUE, 6 BRYSON STREET, 10 BRYSON STREET, AND THE WESTERN PORTION OF 766 BILTMORE AVENUE FROM HI HEAVY INDUSTRIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT; AND REZONING THE EASTERN PORTION OF 766 BILTMORE AVENUE FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT.

ORDINANCE NO. 1963 - ORDINANCE AMENDING ZONING OF PROPERTIES LOCATED AT 750, 760, 762, AND 766 BILTMORE AVENUE AND 6 AND 10 BRYSON STREET

Mayor Michalove opened the public hearing at 4:24 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Gerald Green, Senior Planner, said that in October, 1991, Lewis and Carol Higdon, owners, presented a petition requesting the rezoning of the eastern portion of 766 Biltmore Avenue from R-3 Residential to HI Heavy Industrial. The requested rezoning would have made the zoning of the eastern portion of the lot compatible with the current HI zoning of the western portion of the lot. The

Planning and Zoning Commission and residents of Kenilworth were uncomfortable with rezoning property adjacent to a residential neighborhood to HI. The petitioners were advised to contact owners of adjacent property and have them join in a request to rezone a larger area to CH Commercial Highway. The CH zoning would make the zoning of the property compatible with the current use.

He said two additional parcels (750 and 762 Biltmore Avenue) joined in a request to rezone the lots to CH. This request was heard by the Planning and Zoning Commission at their December 4, 1991, meeting. Due to the small size of the area to be rezoned and the fact that the lots are not contiguous to an existing CH district, legal staff advised that the rezoning might be considered spot zoning. In light of this advice from the legal staff, the Planning and Zoning Commission directed Planning staff to include three additional properties (760 Biltmore Avenue, 6 Bryson Street and 10 Bryson Street) in a rezoning action.

He said that owners of the three additional properties were notified, the rezoning was advertised, and the rezoning was considered by the Planning and Zoning Commission at their January 8, 1992, meeting. Staff and the Commission recommend approval of the rezoning for it will make the zoning of the property compatible with its use. The recommended rezoning is:

766 Biltmore Avenue, PIN 1304
HI to CH (western portion)
R-3 to CH (eastern portion)

762 Biltmore Avenue, PIN 0465 - HI to CH

760 Biltmore Avenue, PIN 0554 - HI to CH

750 Biltmore Avenue, PIN 0658 - HI to CH

6 Bryson Street, PIN 0287 - HI to CH

10 Bryson Street, PIN 1272 - HI to CH

Mr. George Gooseman, attorney for Lewis and Carol Higdon, spoke in favor of the rezoning and asked that Council consider all three readings of the ordinance at this meeting.

Mayor Michalove said that it was the Council's policy to do only 2 readings at one meeting.

Mayor Michalove closed the public hearing at 4:33 p.m.

Mayor Michalove said that members of Council have been furnished with copies of the ordinance and it would not be read in its entirety.

Councilwoman Field moved for the adoption of Ordinance No. 1963. This motion was seconded by Councilman Moore.

On a roll call vote of 7-0, Ordinance No. 1963 passed on its first reading.

Vice-Mayor Ellison moved to suspend the rules and proceed to the second reading of Ordinance No. 1963. This motion was seconded by Councilwoman Field and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1963 passed on its second reading.

B. PUBLIC HEARING RELATIVE TO AN AMENDMENT TO THE SUBDIVISION PLAT FOR BEAVER LAKE HEIGHTS SUBDIVISION

Mayor Michalove opened the public hearing at 4:34 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Gerald Green, Senior Planner, said that Beaver Lake Heights is a six lot residential subdivision located off Greenleaf Circle in north Asheville. The entire site is 3.5 acres in area and the lots range in size from .3 acre to .9 acre. The zoning for the parcel is R-1 single family residential. The subdivision required the construction of a roadway and cul-de-sac to serve the six lots. The roadway is required to meet City standards. MSD has approved the allocation for sanitary sewer. The plans for the sewer line construction and the installation of a pump station required approval through MSD and the N. C. Environmental Management Commission. The project was originally denied water service by the City Engineering Department due to low water volume and low pressure. Adequate fire protection was not available from the City system when the plat was approved. A City Street Cut Permit was required for the proposed roadway off Greenleaf Circle.

The Asheville City Council considered the preliminary plat at several of their meetings.

At the June 4, 1991 meeting, the Asheville City Council approved the preliminary plat for Beaver Lake Heights Subdivision subject to the following contingencies:

1) The proposed street be constructed to City standards and be dedicated to the City once completed.

2) The developer be responsible for installing a 2 inch water line but in no case shall the line be extended more than 1000 ft. in order to tie into the existing City water system and the water lines shall meet all state and local regulations;

3) That each house be installed with sprinklers;

4) That approval is contingent upon the Water Authority approving and moving ahead with the installation of the 6" water line along Merrimon Avenue to increase the pressure and quantity of the water in the area; and

5) The project shall comply with the City's Erosion Control Ordinance.

At the October 15, 1991, meeting, the Asheville City Council voted to approve the final plat for Beaver Lake Heights Subdivision subject to two contingencies:

1) That each house be installed with sprinklers; and

2) That the entire project comply will all City and State codes.

The developer and the property owners of Beaver Lake Heights Subdivision are proposing to cover the cost to extend the 6" line up to Greenleaf Circle to the entrance of the subdivision and install a fire hydrant. The Asheville Fire Department has completed a flow test on the nearest hydrant and has determined that water flow and pressure are adequate for serving the subdivision with fire protection. The developer and property owners are requesting your approval to allow them to cover the costs for the water line improvements and fire hydrant installation in lieu of the installation of sprinklers in the houses.

Mrs. Mary Julian, 6 Beaver Lake Heights Road, spoke against the sprinkler system requirement stating that one sprinkler would cost $4,480.20.

Mrs. Mary Ann Sims, 4 Beaver Lake Heights Road, spoke against the sprinkler system requirement due to the high water bills they would receive.

Mr. Ralph Julian, 6 Beaver Lake Heights Road, spoke against the sprinkler system requirement stating that the cost to install sprinklers in his home would be 12% of the total building cost.

Dr. Neil Sims, 4 Beaver Lake Heights Road, spoke against the sprinkler system requirement.

Mayor Michalove closed the public hearing at 4:49 p.m.

Vice-Mayor Ellison moved to allow the developer and property owners to cover the costs for the water line improvements and fire hydrant installation in lieu of the installation of sprinklers in the houses. This motion was seconded by Councilman Worley and carried unanimously.

III. OLD BUSINESS:

A. ORDINANCE NO. 1960 - ORDINANCE AMENDING ZONING OF PROPERTY LOCATED AT 773 EMMA ROAD (PIN 9629-20-92-6230)

Mayor Michalove said that members of Council have been furnished with copies of the ordinance and it would not be read in its entirety.

On a roll call vote of 7-0, Ordinance No. 1960 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 27

B. GROUP DEVELOPMENT RELATIVE TO THE MEMORIAL MISSION HOSPITAL PARKING DECK EXPANSION

Mr. Gerald Green, Senior Planner, said that this group development request involves an expansion to the East Parking Deck which is currently under construction on the Memorial Mission Campus, along Biltmore Avenue. The East Parking Deck was approved by City Council through the group development process in January of 1991. The original approval included a variance on the front setback along Biltmore Avenue. The proposal included five levels of parking with 605 parking spaces.

He said the current group development request involves an addition to the original parking deck proposal. The expansion would continue the five levels of parking along Doctors Drive. The expansion includes approximately 300 parking spaces. No variances are required for the expansion. All setback and landscaping standards have been satisfied.

He said that at the Planning and Zoning Commission's meeting on February 5, 1992, they voted to approve the group development request for the East Parking Deck Expansion subject to two contingencies:

(1) Receipt of a letter from the Asheville Fire Marshal, stating that adequate flow and pressure are available for fire protection.

(2) Approval of a driveway permit for the Doctor's Drive entrance by the City Public Works Department.

He said that both of the above approvals are in the process and should be completed shortly. He also stated that no public comment has been received regarding this project.

He said that the Planning staff notified the Kenilworth Homeowners Association and they said that there would be only a minimal impact on their neighborhood and they did not object to the group development.

Mayor Michalove said that in accordance with the group development procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission, if the City Council takes no action regarding the report of the Planning and Zoning Commission, the project is approved.

C. **MOTION OF SUPPORT TO FORM CONSORTIUM WITH BUNCOMBE COUNTY AND OTHER UNITS OF LOCAL GOVERNMENT THEREIN FOR PURPOSE OF APPLY FOR HOUSING FUNDS THROUGH THE HOME INVESTMENT PARTNERSHIP PROGRAM.**

Mrs. Annette Coleman, Chairman of the Housing and Community Development Committee, said that the Committee recommends that the City pursue a consortia arrangement between the City of Asheville, County of Buncombe and other interested units of local government within the County for the purpose of apply for housing funds through the HOME Investment Partnership Program. The new HOME Investment Partnership Program provides an additional resource to fund affordable housing needs of law and moderate income persons. The City does not qualify to apply for funds directly from HUD due to a six factor formula based on population and housing characteristics. The City could receive funding from HUD as a member of a consortium. A consortium of all units of local government within Buncombe County would provide approximately $1,250,934 for housing activities within the consortium. An advisory committee would

recommend the allocation of funds among members of the consortium. If the funds were distributed on population alone, the City of Asheville would receive $444,392.12.

The deadline to apply for consortia funding from HUD for the current year has expired, however, the City could apply to the state for funding under the state's allocation of $22 million for the current year. The state has not established a deadline for applying but has indicated applications will probably be received after April. They are encouraging formation of the consortia prior to April.

HUD has established a deadline of March 31, 1992, for consortia applicants to submit a "Notice to Apply" for Fiscal Year 1993 funds directly from HUD.

The program rules prohibit the use of grant funds to cover administrative cost of the "participating jurisdictions." Administrative cost would be much higher if the City is designated as the "lead agency" for the consortium. The administrative cost for the City could be funded from the CDBG Program as long as the cost does not cause the City to exceed the 20% limitation on CDBG funded administrative expenses.

Administrative cost would be greater with a regional consortium than a consortium within Buncombe County due to additional staff and travel requirements. The administrative cost for a county-wide program with the City administering the program is $44,139 and the administrative cost for a regional program with the City administering the program is $87,178.

The amount of funding the City would receive from the HOME grant would probably be the same for a county or regional program since population will probably be the primary factor used to distribute the funds within the consortium.

The administrative cost for a county program would be within the 20% limitation of CDBG administrative cost. The administrative cost of a regional program would exceed the 20% cap and would have to come from non-CDBG sources.

The match requirements for the first year of the program (Fiscal Year 1992) have been waived by Congress, however, there is a match requirement to receive funds for Fiscal Year 1993 and beyond. The match requirement depends on the type of project. Moderate rehab requires 25%, substantial rehab requires 33% and new construction requires 50% match. Based on 25% match, the match requirement would be approximately $110,098 for years after Fiscal Year 1992.

Upon inquiry of Council, City Attorney Slawter said that in two weeks the City Council would be requested to consider execution of an agreement between the City of Asheville and the other entities who decide to participate.

There was discussion amongst the Council regarding the City being the lead agency and having to pay for administrative costs of grants for other entities.

Mayor Michalove asked for a letter from the Land-of-Sky Regional Council regarding their interest in administering the program outside Buncombe County and suggested that the City Attorney work with the Land-of-Sky Regional Council on drafting an agreement for same, if that can be done under the rules.

Vice-Mayor Ellison moved to support the formation with Buncombe County and other units of local government therein for the purpose of applying for housing funds through the HOME Investment Partnership Program. This motion was seconded by Councilman Moore and carried unanimously.

IV. NEW BUSINESS:

A. RESOLUTION NO. 92-19 - RESOLUTION APPROVING THE REPORT SETTING FORTH PLANS TO PROVIDE SERVICES TO THE AREA PROPOSED FOR ANNEXATION WHICH IS GENERALLY KNOWN AS THE BEAVERDAM RUN ANNEXATION AREA

Ms. Patty Tallerday, Senior Planner, highlighted the Plan by stating that one more sworn police officer would be needed; a five-year agreement with the Beaverdam Volunteer Fire Department would be entered into (or an amendment to its current contract); and approximately 400 linear feet of 6-inch water line, a fire hydrant and approximately 350 linear feet of 2-inch water line along Sunnyside Lane would be necessary. Solid waste collection and street maintenance services will be provided to this area on substantially the same basis and in the same manner as it is provided within the City on the date of annexation.

City Manager Bean responded to questions from Council relative to where this particular annexation fits in the 2010 Plan.

Mr. Johnny Lord felt that City staff should not have a plan already complete and then present it to the residents. He felt the residents should participate in the compilation of the plan and then submit that to the Council.

Councilman Peterson felt he could not support any more annexations until the City is able to adequately provide those services within the City of Asheville. He felt the residents of the proposed annexation area should be given an opportunity to vote on whether or not they want to be annexed.

Upon inquiry of Councilman Worley, City Manager Bean explained that the Plan can be amended if changes are desired.

Councilwoman Field stated that a lot of people worked on the 2010 Plan and that the Plan should be used as a guideline.

Councilman Swicegood echoed Councilman Peterson's comments relative to not supporting future annexations.

Vice-Mayor Ellison felt that a meeting should be held with the residents before the Plan is presented to the Council.

Mayor Michalove spoke in favor of the annexation stating that the City is following all the laws of the State of North Carolina with regard to annexation.

It was the consensus of Council not to annex any more areas until the process is looked into with regard to possibly meeting with the residents prior to the Plan being presented to Council.

Mayor Michalove said members of Council have been furnished with copies of the resolution and it would not be read in its entirety.

Councilman Moore moved for the adoption of Resolution No. 92-19. This motion was seconded by Councilwoman Field and carried on a 5-2 vote, with Councilmen Peterson and Swicegood voting "no".

RESOLUTION BOOK NO. 19 AT PAGE 105

C. RESOLUTION NO. 92-20 - RESOLUTION REVISING THE STORM DRAINAGE POLICY FOR THE CITY OF ASHEVILLE

City Attorney Slawter explained that this resolution will revise the existing storm drainage and subsurface drainage policy of the City by authorizing the City to participate in the construction or improvements to systems on private property for which the City has not previously

accepted the dedication of a right-of-way for such improvements. The City may participate in the construction or improvements to systems so located upon the following conditions:

A. A determination first being made by the City that the improvements will enhance the storm drainage or sub-surface drainage system of the City of Asheville, including drainage of public streets or other public property.

B. Acceptance by the City of the dedication of a right-of-way adequate to construct and maintain the storm drainage improvements.

C. Approval of the project by the City by either of the following methods:

1. Pursuant to a petition for special assessments as authorized by Article 10 of Chapter 160A of the North Carolina General Statutes; or

2. Approval of the project for participation in the cost thereof by the City (on a joint basis with the property owners requesting the improvements where deemed appropriate by the City) on a priority basis to be determined by the City Manager giving consideration to the following factors:

a. The need for the improvements in relation to other requests for storm drainage improvements elsewhere within the City.

b. The extent to which the improvements will benefit the storm drainage system of the City as a whole, including storm drainage within City streets and other publicly and privately owned property.

c. The extent to which the property owners requesting the improvements are willing to participate in the cost of the improvements.

d. The extent to which imminent danger to the public health, safety or welfare is threatened by failure to proceed with the improvements.

Mayor Michalove said members of Council have been furnished with copies of the resolution and it would not be read in its entirety.

Vice-Mayor Ellison moved for the adoption of Resolution No. 92-20. This motion was seconded by Councilman Moore and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 119

C. **RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE A CONTRACT AND ANY CHANGE ORDER WITHIN THE BUDGETED AMOUNT WITH HOBSON CONSTRUCTION COMPANY INCORPORATED FOR THE PROJECT KNOWN AS PEBBLE CREEK CONDOMINIUMS CREEK BANK STABILIZATION PROJECT**

Vice-Mayor Ellison moved to reject the bids and readvertise for the project known as Pebble Creek Condominiums Creek Stabilization Project. This motion was seconded by Councilman Worley and carried unanimously.

D. **ORDINANCE NO. 1964 - BUDGET AMENDMENT RELATIVE TO CAPITAL EXPENDITURE FOR ASHEVILLE TRANSIT AUTHORITY**

City Manager Bean explained that this budget amendment in the amount of $73,200 provides funding for procurement of office and shop equipment for the Asheville Transit Authority.

Mayor Michalove said members of Council have been furnished with copies of the ordinance and it would not be read in its entirety.

Councilman Moore moved for the adoption of Ordinance No. 1964. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, Ordinance No. 1964 passed on its first and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 37

V. CONSENT:

A. **RESOLUTION NO. 92-21 - RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASHEVILLE TO EXECUTE AN EASEMENT IN FAVOR OF THE CAROLINA POWER & LIGHT COMPANY FOR PROPERTY AT THE ASHEVILLE REGIONAL AIRPORT**

This resolution will authorize the Mayor to execute an agreement with Carolina Power & Light Company to install an electric line to serve various facilities for the French Broad Golf Center on property owned by the City of Asheville.

RESOLUTION BOOK NO. 19 AT PAGE 122

B. RESOLUTION NO. 92-22 - RESOLUTION APPOINT MEMBER TO THE FIREMEN'S RELIEF FUND

The term of Donald O. Fowler, as a member of the Firemen's Relief Fund, expired on January 1, 1992. This resolution will appoint Mr. Mitch McEntire to serve a two year term, term to expire on January 1, 1994, or until his successor is duly appointed and qualified.

RESOLUTION BOOK NO. 19 AT PAGE 125

C. RESOLUTION NO. 92-23 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE TREE/GREENWAY COMMISSION

Mr. Arthur Allen, member of the Asheville Tree/Greenway Commission, has resigned. This resolution will appoint Mr. Julian Price to serve the unexpired term of Mr. Allen, term expiring August 1, 1993, or until his successor is duly appointed and qualified.

This resolution will also appoint Mr. Harry Baker, effective August 1, 1992, to serve a three year term, term expiring August 1, 1995, or until his successor is duly appointed and qualified.

RESOLUTION BOOK NO. 19 AT PAGE 126

Vice-Mayor Ellison moved for the adoption of the consent agenda. This motion was seconded by Councilwoman Field and carried unanimously.

VI. OTHER BUSINESS:

A. BIDS FOR ONE 4-WHEEL DRIVE TRACTOR/LOADER FOR PUBLIC WORKS, SANITATION DIVISION, AND ONE ARTICULATING SKID STEER LOADER FOR THE PARKS, RECREATION AND PUBLIC FACILITIES DEPARTMENT

Councilman Moore moved to award the bid for the one 4-wheel drive tractor/loader for Public Works, Sanitation Division, to the low bidder, Arden Equipment Company Inc., Arden, North Carolina, in the amount of $27,519.00. This

motion was seconded by Vice-Mayor Ellison and carried unanimously. A copy of the bid summary is attached as Exhibit "A".

Vice-Mayor Ellison moved to reject the sole bid (Viking Equipment Company, Asheville, North Carolina, in the amount of $38,683.46) for one articulating skid steer loader for the Parks, Recreation and Public Facilities Department and readvertise. This motion was seconded by Councilwoman Field and carried unanimously.

B. UDO REPORT FROM COUNCILMAN MOORE

Councilman Moore stated that the Mayor's Committee to study the next steps in the UDO process met on January 17, 1992, and March 2, 1992. After discussion, the Committee members decided to recommend to the City Council as a whole the following steps:

A. To accept the formal recommendations from the UDO subcommittees reported to Council at the public meeting of February 17, 1992.

B. To instruct the Planning staff to start writing a tentative first draft of a proposed UDO ordinance in conformance, as much as possible, with the 2010 Plan.

C. To request the UDO Committee to submit to Council a list of the major public policy issues that should be settled by Council.

D. To publicize that list as widely as possible, inviting written comment from individuals and organizations in the community and for the Mayor's Committee to evaluate the reaction to the original list, reassess the progress of the UDO project and prepare another set of recommendations for the Council.

E. To schedule a work session at a convenient time for the Council as a whole to evaluate the UDO process as it now stands and set up a work schedule to carry the project forward.

Upon inquiry by Vice-Mayor Ellison relative to expanding the Committee and appointing all the members at that time, Councilman Moore stated that the Mayor's Committee is not prepared at this time to deal with that issue. He stated that once the Mayor's Committee follows up

on the steps that have just been been outlined, a recommendation will come from the Mayor's Committee to the Council as a whole.

Councilman Peterson stated that as soon as staff starts writing the ordinance that all interested persons have an opportunity to look at it.

Councilman Moore said that that the Mayor's Committee is urgently in favor of making this project as public as possible. He said that the Committee would certainly require that as these various phases of the proposed draft are written that they be made available to all the interested people in the community.

Upon inquiry of Mayor Michalove relative to a timeframe to instruct the Planning Staff to start writing a tentative first draft of the UDO ordinance, Councilman Moore stated that there was no timeframe set. He said that the Planning staff would probably start entering it into the computer in the course of several weeks. Then, as the City Council comes to grips with those public policy issues, it would be no problem to conform the ordinance to the Council's decisions on those issues.

Mayor Michalove hoped that that the Planning staff would not spend a lot of time in areas where there are apt to be changes. He felt they should start typing those 80% technical things and that it might be better if they didn't start on those 10-15 issue items until the City Council can give them some guidance.

Councilwoman Field said that a lot of ideas are floating around and that something needs to be put on paper for everyone to start working on.

Councilman Moore agreed with Councilwoman Field and asked that the Council agree on an orderly approach to deal with the public policy issues and felt that there will be, as a result of that, plenty of written material for people to look at. He stressed that the UDO Committee wanted everyone involved in every step of the way.

Mayor Michalove thought that some type of deadline should be set for the UDO Committee to submit to the Council the list of major public policy issues that should be settled by the City Council.

Councilman Moore stated that there is a meeting of the UDO Committee very soon and felt that the Committee would be concentrating on supplying the City Council with that list.

Mayor Michalove asked the Committee to get as much to the Council as they could by the next meeting and then give the Council some information on how long it would take to wind that process up so that the Council can set some deadlines.

Council Moore moved to accept the above recommendations of the Mayor's Committee, with the additional points raised. This motion was seconded by Councilwoman Field and carried unanimously.

C. RESOLUTION NO. 92-24 - RESOLUTION TO AUTHORIZE EXECUTION OF AN AMENDMENT TO THE LOAN AGREEMENT WITH 58 BROADWAY CORPORATION

City Manager Bean stated that a request of additional funds in the amount of $20,000 by Mr. Tom Steitler of 58 Broadway Corporation has been received due to the overruns of the 58 Broadway Demonstration Loft Project. He said that he will be asking the bank for an additional $20,000 too.

Mr. Tom Steitler said that he is requesting the additional $20,000 in CDBG monies in order to continue to offer these units to the target market - 80% of medium income. He said the increases in the project cost of $40,000 are due principally to the following factors:

- About 1/3 due to project enhancements - i.e., raising the roof to allow more 'loft' space on second floor.

- About 1/3 due to protracted time and underestimating renovations costs

- About 1/3 due to inefficiencies in dealing with City Inspections and Planning Departments. Inspections Division - on numerous occasions reinterpreted code after preliminary approvals requiring additional labor costs, protracted interest carrying costs, additional material costs, etc. Planning Department - required group development review through City Council for a 3 unit project - time lost was 2+ months during summer of 1991. Community Development Division - Had already prepared a 1.5" thick document on project impacts a few months prior.

In response to the inefficiencies in dealing with the Planning Development on group development review, the following excerpts of a memo from Julia Cogburn dated March 2, 1992, were discussed amongst the Council and Mr. Steitler:

"Mr. Steitler states in his letter that he feels there were 'inefficiencies' in dealing with the Department on this project. He sites the fact that the 'lost' 2+ months on group development review and the fact that our CD Division had previously reviewed his project proposal. In every regard on this matter I feel that the Planning Department staff acted appropriately and in accordance with established rules, regulations and procedures.

"Mr. Steitler infers that he feels that the CD review and the group development review were duplicative and, therefore, unnecessary. It is my opinion that although some of the information provided for these processes might overlap, the two processes involved were very distinct in purpose, different in most of the information required, and were handled by two separate divisions in our office. The CDBG proposal submitted for the project was completed in May of 1990, the group development review took place during the summer of 1991.

"The CDBG proposal and project impact analysis was prepared in conjunction with the use of Community Development Block Grant (CDBG) Funds for 58 Broadway. These documents include such information as: project description, unit layout, budget, etc. This is <u>not</u> a site plan review.

"The CD review has little, if any, relationship to the group development review required by Section 30-6-1 of the City of Asheville's Zoning Ordinance. This review is required for multi-family residential projects containing three (3) or more individuals units. This review, as you are aware, typically takes place shortly before a building permit is obtained. The items needed for this review include site plans, landscaping proposals, utility commitments, etc. The purpose of this review is to evaluate whether or not a project complies with development regulations of the City of Asheville. Due to scheduling of the Planning and Zoning Commission and City Council, and the time needed for review on June 28, 1991, and completely approved on August 20, 1991."

In response to the inefficiencies in dealing with the Inspections Division, the following excerpts of a memo from John Rukavina, Fire Chief, and Bob Hixson, Director of Building Inspections, dated March 3, 1992, were discussed amongst the Council and Mr. Steitler:

"In the course of dealing with Mr. Steitler and his architect, Peter Alberice (of Camille and Alberice), we jointly identified only two cases where there was a question of inspection interpretation. In the first case--an exit stair--the inspector advised that the stair could be made of pressure-treated wood. He subsequently revised his statement and told the developers that, since 58 Broadway was in the Downtown Fire District, fire-resistive materials (steel or fire-resistant wood) would be required for the exit stair. In the second case, the contractor was advised that the building code required certain electrical boxes to be surrounded with 5/8" fire-rated sheetrock. Mr. Steitler was concerned because the electrical inspector hadn't raised this requirement. Since this was a building code requirement--not an electrical code requirement--it was the building inspector who pointed this out to the contractors.

"We are aware of these two code application questions. We are unaware of 'numerous' code interpretations."

Councilman Moore felt sure that there were needy agencies that would also like to have the benefit of CDBG funds if they knew there was some monies available.

Mayor Michalove felt that the Council should develop a policy on requests for additional funds due to cost overruns. He felt it would be a good idea for the request to come from the committee involved along with a recommendation from that committee.

Councilwoman Field and Councilman Moore both agreed that a policy should be developed relative to cost overruns.

Councilman Peterson felt that overruns occur all the time and the City should not start paying for them.

There was some discussion as to the additional amount which would be added to the monthly mortgage payments if the developer received the $40,000, $20,000 or $10,000 additional funds.

Mayor Michalove said members of Council have been furnished with copies of the resolution and it would not be read in its entirety.

Vice-Mayor Moore moved for the adoption of Resolution No. 92-24, which authorizes the Mayor to execute an amended loan agreement, deed of trust, promissory note and other related documents, approved by the City Attorney, necessary

to increase the loan amount by $10,000 with 58 Broadway Corporation. This motion was seconded by Vice-Mayor Moore and carried on a 5-2 vote, with Councilmen Peterson and Swicegood voting "no".

RESOLUTION BOOK NO. 19 AT PAGE 127

D. ORDINANCE NO. 1965 - BUDGET AMENDMENT IN THE AMOUNT OF $10,000 TO INCREASE LOAN TO 58 BROADWAY CORPORATION TO FUND PROJECT COST OVERRUN

City Manager Bean said that this budget amendment is in conjunction with Resolution No. 92-24 above. It will increase the loan by the amount of $10,000 to help defray the cost overrun associated with the 58 Broadway Corporation Demonstration Loft Project.

Mayor Michalove said members of Council have been furnished with copies of the ordinance and it would not be read in its entirety.

Vice-Mayor Ellison moved for the adoption of Ordinance No. 1965. This motion was seconded by Councilman Moore.

On a roll call vote of 5-2, Ordinance No. 1965 passed on its first and final reading, with Councilmen Peterson and Swicegood voting "no".

E. NEXT MEETING OF THE ASHEVILLE CITY COUNCIL

Mayor Michalove stated that the next meeting of the City Council would be held at 4:00 p.m. at the Asheville Civic Center Banquet Room on March 17, 1992.

F. ANNUAL LEADERSHIP CONFERENCE SPONSORED BY THE CHAMBER OF COMMERCE

Mayor Michalove encouraged the Council members to attend the Annual Leadership Conference sponsored by the Chamber of Commerce on April 30, May 1 and May 2, 1992.

G. LUNCHEON INVITATION

Mayor Michalove stated that Sam Schuman, Chancellor of UNC-Asheville, has invited the Council members to a luncheon either on March 31, 1992, or May 5, 1992.

H. BREAKFAST INVITATION

Mayor Michalove stated that the Curriculum Team at Asheville Middle School has invited the Council members to a

"Round Table Breakfast" on Thursday, March 12, 1992, at 7:15 a.m. in the Media Center. During the breakfast, they would like to share the progress that is being made by the administration and staff in the areas of curriculum and program development.

I. CITY PAGE

City Manager Bean stated that the new "City Page" will be started in April. He said that there will be a 1/2 page ad every Friday with a full page add the last Friday of the month.

J. CLAIMS

City Manager Bean said that the following claims were received during the week of February 17 - 21, 1992: Elmer Robinson (Water) and Christopher Holoroyd (Water).

He also stated that a claim from TCI Cable (Water) was received during the week of February 24-28, 1992.

He said that these claims have been referred to the appropriate insurers for investigation.

VII. ADJOURNMENT

Mayor Michalove adjourned the meeting at approximately 6:50 p.m.

William F. Wolcott
CITY CLERK

K. M. Michalove
MAYOR

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BID SUMMARY
BID REQUEST NO. 394-92

CITY OF ASHEVILLE
PURCHASING DIVISION

BID OPENED: WEDNESDAY, FEBRUARY 5, 1992 3:00 P.M.

ONE (1) FOUR WHEEL DRIVE TRACTOR/LOADER FOR PUBLIC WORKS, SANITATION DIVISION
AND ONE (1) ARTICULTING SKID STEER LOADER FOR PARKS AND RECREATION DEPARTMENT

BIDDER	ARDEN EQUIPMENT CO. ARDEN, N. C.	GENERAL TRACTOR ASHEVILLE, N. C.	FARM EQUIPMENT CO. ASHEVILLE, N. C.	VIKING EQUIPMENT CO. ASHEVILLE, N. C.
ITEM 1: 1) FOUR WHEEL DRIVE TRACTOR/LOADER FOR PUTLIC WORKS, SANITATION DIV.				
MAKE:	Case Corporation	John Deere	Ford	
MODEL:	480F	210C	545C T-L	
YEAR:	1992	1992	1992	
AMOUNT:	$27,519.00	$29,375.00	$31,795.00	NO BID
DELIVERY:	120 Days A.R.O.	60 Days A.R.O.	120 Days A.R.O.	
ITEM 2: 1) ARTICULATING SKID STEER LOADER FOR PARKS AND RECREATION DEPARTMENT		rejected		
MAKE:				Melroe Bobcat
MODEL:				2410/914B
YEAR:				1991 New
AMOUNT:	NO BID	NO BID	NO BID	$38,683.16
DELIVERY:				20 - 30 Days
TERMS:	Net 30	Net 30	Net 30	Net 30
BID DEPOSIT:	5% Official Check	5% Bid Bond	5% Official Check	5% Official Check/Cash

The following companies submitted a 'No Bid': W. T. Sherrill, Inc., Greensboro, N. C.
Prime Equipment Company, Asheville, N. C.
Ditch Witch of Charlotte, Charlotte, N. C.
N. C. Equipment Company, Asheville, N. C.
Mitchell Distributing Company, Asheville, N. C.
Interstate Equipment Company, Statesville, N. C.

Tuesday - March 17, 1992 - 4:00 p.m.
Asheville Civic Center - Banquet Room

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Councilman Moore gave the invocation.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the March 3, 1992, City Council minutes, as amended.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING MARCH 1992 AS "WOMEN'S HISTORY MONTH"

Mayor Michalove read a proclamation proclaiming the month of March 1992 as "Women's History Month" and presented it to Ms. Julia Reeves, President of the Western Carolina Women's Coalition.

B. PROCLAMATION PROCLAIMING APRIL 1992 AS "CHILD ABUSE PREVENTION MONTH"

Mayor Michalove read a proclamation proclaiming the month of April 1992 as "Child Abuse Prevention Month" and presented it to Ms. Cassie Pavone with the Family Services Center.

C. PROCLAMATION PROCLAIMING MARCH 20, 1992, AS "VEGETARIAN EDUCATION DAY"

Mayor Michalove read a proclamation proclaiming March 20, 1992, as "Vegetarian Education Day" and presented it to Ms. Kayla Rosko, Asheville Chapter Coordinator for the NC Network for Animals.

II. PUBLIC HEARING:

A. PUBLIC HEARING RELATIVE TO CLOSING A 15-FOOT ALLEY OFF HAMPDEN ROAD IN THE CITY OF ASHEVILLE, NORTH CAROLINA

RESOLUTION NO. 92-25 - RESOLUTION TO CLOSE 15 FOOT ALLEY OFF HAMPDEN ROAD IN THE CITY OF ASHEVILLE, NORTH CAROLINA

Mayor Michalove opened the public hearing at 4:16 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Jim Ewing, Director of Public Works, stated that a petition to close the 15-foot alley off Hampden Road between Hampden Road, Kensington Road and Beverly Road was received by the Public Works Department. He said that the Public Works Department has reviewed the petition to close the alley and found that it would have no detrimental effects upon City operations. He said that each utility provider has been contacted and as a result of those contacts, the closing is subject to the retention of easements extending the full length and width of said alley by (1) Carolina Power & Light Company for the installation and maintenance of an electrical distribution line and (2) Metropolitan Sewerage District for the installation and maintenance of a wastewater line.

Mayor Michalove closed the public hearing at 4:16 p.m.

Mayor Michalove stated that members of Council have received copies of the resolution prior to the meeting and it would not be read in its entirety.

Councilman Worley moved for the adoption of Resolution No. 92-25. This motion was seconded by Councilman Moore and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 128

III. OLD BUSINESS:

A. THIRD READING OF ORDINANCE NO. 1963 RELATIVE TO THE REZONING OF 750 BILTMORE AVENUE, 762 BILTMORE AVENUE, 760 BILTMORE AVENUE, 6 BRYSON STREET, 10

BRYSON STREET, AND THE WESTERN PORTION OF 766 BILTMORE AVENUE FROM HI HEAVY INDUSTRIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT; AND REZONING THE EASTERN PORTION OF 766 BILTMORE AVENUE FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT.

Mayor Michalove said that members of Council have been furnished with copies of the ordinance and it would not be read in its entirety.

On a roll call vote of 7-0, Ordinance No. 1963 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 35

IV. NEW BUSINESS:

A. **RESOLUTION NO. 92-26 - RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASHEVILLE TO ENTER INTO A JOINT COOPERATION AGREEMENT ESTABLISHING THE ASHEVILLE-REGIONAL HOUSING CONSORTIUM**

City Manager Bean stated that at the March 3, 1992, Council meeting, the members of Council had some questions relative to the HOME consortium and he summarized the concerns as follows:

1) Who would be the lead agency? The City of Asheville would be the lead agency. In accordance with the Federal regulations a governmental agency needs to be the lead agency. It has been suggested among the various members that the City of Asheville assume this role due to our technical expertise in administering community development programs.

2) What role can the Land-of-Sky Regional Council play? Since the Land-of-Sky is not a governmental entity it can not serve as the lead agency. The Land-of-Sky could, however, provide technical assistance to each of the other units of government that do not have staff available for making application and could implement programs on a contractual basis for the other governmental units.

3) Who would be assuming the financial responsibility to HUD for Consortium funds? Should the City of Asheville be the lead agency we would be

responsible to HUD for the proper expenditure of all the funds. The funds would be received by the City and dispersed to the Consortium and the other governmental entities.

4) Who is responsible for making assurances that Federal regulations will be followed? The City of Asheville is ultimately responsible to HUD for compliance with all Federal regulations.

5) Who is responsible for subsequent monitoring of the program? The City of Asheville as lead agency would be responsible for monitoring all of the sub-recipients uses of funds.

6) How long of an obligation would there be for the Consortium? There is an obligation on the part of the Consortium members for a three year period of time. The acceptance of grant funds would be on an annual basis. The City of Asheville's responsibilities, however, would not end for 20 years. Monitoring would have to take place for all projects and the longest period for which there is a legal responsibility is for rental rehab projects over $25,000 per unit. For these particular grants the City would be responsible to HUD for the 20 year period.

7) Throughout the existence of the Consortium and the subsequent years of responsibility, who is accountable to HUD for making sure that all Federal regulations continue to be met? The City of Asheville is responsible to HUD and should there be any violation of regulations or repayment of funds, HUD will look to the City of Asheville for these funds.

8) Can the City of Asheville pass along its obligations to other Consortium members? The City of Asheville cannot pass along its role as lead agency that it has with HUD. The City can contractually, through the attached agreement, assign responsibilities to each of the Consortium members to abide by Federal regulations. It would be up to the City to monitor these governmental entities and to make sure the regulations are being met. The Consortium and its members have no responsibility to HUD and only to the City of Asheville. Should a dispute occur between the City and the Consortium members, and should it

require a court to settle these disputes, they would be heard in the County of the receiving agency.

9) Is there a match required this year? Initially the Consortium would be applying for State funds that require no match. Also, we would be applying for Federal funds next year which require a match in the area of 25 to 30% of total funds received.

10) Who would be responsible for paying the match? The way the agreement is currently drafted each of the receiving agencies would pay their own match.

11) Who would be responsible for administrative costs? The administration of the program would be paid by each of the Consortium members and it is estimated to be 10% of the total funds available.

12) Is this a Federal or a State program? HUD currently provides a direct allocation to consortiums as an entitlement grant. By forming a Consortium with either Buncombe County or all of the surrounding government, money would come directly from the Federal government to the Consortium. There is also a second source of funds available through the State. Individual units of government that do not form a consortium can apply to the state on an annual basis for funding for individual projects.

13) What happens if we do not form a Consortium? If a Consortium is not formed, each governmental unit, including the City of Asheville, can apply to the state for funding on an annual basis. Each unit would therefore be totally responsible to the state for complying with Federal regulations and for the appropriate expenditure of their funds.

14) Should Asheville and Buncombe County form a Consortium, what will happen to the other governmental units in Western North Carolina? There would remain the option for these units to form a Consortium of adjoining counties or for those that do not participate in the Consortium to apply to the State for an annual appropriation.

Councilman Moore recognized the need for new housing but felt that the City should enter a consortium with only

Buncombe County for the three year period of time with the understanding that City staff monitor the progress of the program as it applies to the City of Asheville and all across the country. He felt that they should report the progress to the Council at regular intervals and perhaps with some recommendations.

Councilman Worley did not feel comfortable with the agreement as presented to the Council. He felt the agreement did not fully protect the City (as lead entity) if regulations were violated by the other entities caused by no fault of the City. He felt that it would be better to enter into a consortium with Buncombe County only due to the short timeframe (by March 31 to HUD) within which the staff has to work up a suitable agreement.

Tom Elmore, representative of the Land-of-Sky, said that although the Land-of-Sky cannot serve as the lead agency, it could, however, provide technical assistance on a contractual basis.

It was the consensus of Council to amend the resolution and agreement to provide that the consortium be limited to Buncombe County and that the final terms of the agreement be approved by the Mayor, Vice-Mayor, City Manager and City Attorney.

Mayor Michalove stated that members of Council have been furnished with copies of the resolution and it would not be read in its entirety.

Councilman Moore moved to adopt Resolution No. 92-26, as amended. This motion was seconded by Vice-Mayor Ellison and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 130

B. RESOLUTION NO. 92-27 - RESOLUTION CALLING FOR A PUBLIC HEARING FOR THE ADOPTION OF AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH THE DWELLING LOCATED AT 18 IVEY STREET

Bob Hixson, Director of Inspections, stated that 18 Ivey Street is a two-story burned structure. He said that an administrative housing hearing was held on July 17, 1991, and the owners of the structure were present. He said the owners stated that they did not have the money to demolish it themselves. He said all proper notices have been given to make the property owner and all parties in interest aware of the Order finding that 18 Ivey Street, in its present condition, is an imminent threat to life and property.

Upon request of Councilman Peterson, Mr. Hixson said that he would have estimates on the cost to tear the dwelling down by the public hearing date of March 31, 1992.

Mayor Michalove stated that members of Council have been furnished with copies of the resolution and it would not be read in its entirety.

Councilwoman Field moved for the adoption of Resolution No. 92-27 setting a public hearing on March 31, 1992, at 4:00 p.m. in the Asheville Civic Center Banquet Room, for the adoption of an ordinance directing the Director of Building Inspections to demolish the dwelling located at 18 Ivey Street. This motion was seconded by Councilman Moore and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 132

V. CONSENT:

A. RESOLUTION NO. 92-28 - RESOLUTION AUTHORIZING THE CITY MANAGER TO RENEW THE CONTRACT WITH DAP SECURITY INC. FOR SCHOOL CROSSING GUARDS ON BEHALF OF THE CITY OF ASHEVILLE

Summary: In 1989, the City of Asheville felt that it would be more cost effective and productive to contract all school crossing guard positions to private security due to the significant negative impact on police services. At that time, three proposals were received to provide school crossing guard services and staff recommended the acceptance of DAP Security Inc. Since 1989 DAP Security has provided the City with school crossing guard services and has been dependable. Currently DAP Security provides school crossing guard services to the City at an annual cost of $64,411. DAP Security has proposed to continue to provide said services to the City for the next two years with no increase in the annual cost. City staff has recommended that the City renew the contract with DAP for a one year period.

RESOLUTION BOOK NO. 19 AT 134

B. RESOLUTION NO. 92-29 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A MUNICIPAL BRIDGE AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR REPLACEMENT OF THE GLENDALE AVENUE BRIDGE OVER THE SWANNANOA RIVER

Summary: This resolution is required to set the Glendale Avenue Bridge Replacement Project up under the Federal Highway Administration off system Bridge Replacement

Program. Once the agreement is executed, the City will be able to receive reimbursement of 80% of allowable cost of the Bridge Replacement Project.

RESOLUTION BOOK NO. 19 AT PAGE 136

C. RESOLUTION NO. 92-30 - RESOLUTION TO AUTHORIZE THE CITY MANAGER TO ENTER INTO AN INDEMNIFICATION AGREEMENT WITH NATIONAL DRAEGER INC. FOR THE USE OF A FIREFIGHTER TRAINING CENTER TRAILER

Summary: Draeger, USA, the manufacturer of the Fire Department's self-contained breathing apparatus (SCBA) makes available to its SCBA purchasers the use of a special "training trailer" for firefighter training at no cost. The only requirement is execution of an indemnification letter between the City and Draeger.

RESOLUTION BOOK NO. 19 AT PAGE 137

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENT

Mr. Gerald Green, Senior Planner, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. He said in accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. He said the following action was taken by the Planning and Zoning Commission on March 4, 1992:

SEVIER APARTMENTS

Mr. Green said that CC&J Enterprises, developers, are proposing the construction of a four-unit apartment building to be located on Sevier Avenue adjacent to the UNC-A campus. The proposed building will be Phase III of the apartment complex, which currently consists of three buildings. A single family home located on the portion of the site where the proposed building will be constructed is used as manager's residence.

He said all utilities are available for the project and adequate fire protection is available. The project complies with all requirements of the Asheville zoning ordinance. After reviewing the site plan, the Asheville Planning and Zoning Commission recommended approval of the project.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

B. TRAFFIC PROBLEMS ON PATTON AVENUE

Upon inquiry of Vice-Mayor Ellison relative to traffic problems on Patton Avenue, City Manager Bean said that one lane of traffic is open continuously and regular meetings are held with property owners affected along Patton Avenue.

C. RALPH BISHOP

Mr. Ralph Bishop suggested Council hold a regular Council meeting at the J.B. Plemmons' property where he alleges Mr. Plemmons is selling lottery tickets.

D. PETITION RELATIVE TO CITY SCHOOLS

Ms. Victoria Angelis read a statement relative to the lack of quality education for all students at City schools. She stated that she had a petition with over 500 signatures on it demanding the Superintendent of City School, Doug Pearson, to resign. She stated that she also had a petition demanding resignation of the School Board members. She stated that they want an elected School Board.

City Attorney Slawter stated that the School Board, not the City Council, has the power to hire and fire a superintendent. He said to hire and fire a superintendent is beyond the scope of City Council's authority. He said that although the City Council appoints the School Board members, they cannot remove them because their four-year terms were set by the General Assembly. He stated that the City Council can request the local legislative delegation to change the terms if they wish.

Councilman Peterson said he supported making board memberships an elected position.

Mr. Bob Brown stated that three years ago he gave the City a petition with 859 signatures on it asking the City Council to request our local delegation amend the laws to provide for an elected School Board.

Vice-Mayor Ellison felt that once districts are established for the City Council, then it would be easy to draw wards for the elected School Board.

Councilman Moore supports the idea of the City Council elected by districts and stated that he would vote for the overall quality of education.

Councilwoman Field said that she was very much concerned about the education of the students.

Councilman Worley also was very much concerned about the education of the students and stated that goals have been set by the Council to further dialogue with the School Board. He felt that through community involvement, improvements can be made.

Councilman Swicegood said that the Council needs to work for the best education system possible and one way is to meet regularly with the School Board.

Mr. Joe Bly spoke about the School Board meetings being closed and statistics of drop out ratios.

Ms. Sophia Dixon stated that if Asheville went to an elected School Board there would be no minority representation.

Rev. Calhoun hoped that more people would volunteer in the school system and hoped that the community would work together to make a difference.

Mr. Albert Sneed said that he took both of his children out of the public school system and felt that his children would have been slighted because of him taking a stand about the quality of education in the schools. He asked that everyone keep the pressure on this situation.

Mr. David Thompson spoke in support of the petition asking Superintendent Pearson to resign. He felt that the school system is not operating properly and the system does not meet the children's needs.

Ms. Amelia Taylor felt that there was no support in the classrooms and that no one wants to be held accountable for the lack of quality education.

Mr. Chris Wren spoke about the problem of support and felt that $150,000/year for rent for the administrative offices and $93,000/year salary for Superintendent Pearson were exorbitant.

Ms. Pat Warlick said that teachers are required to each without adequate materials and she stated that something had to be done to alleviate this problem.

Mr. Bob Douglas spoke in support of the Superintendent stating that he is trying to identify many tough issues and that it is unfair to lay all the years of neglect on Pearson's shoulders.

Ms. Minnie Jones did not support the elective School Board and felt that something needed to be done about the current situation within the boundaries of the law.

Mr. Harold Holcombe passed out a letter to the Council members stating that the Council needs to become involved in some fashion with the situation.

Mr. Hayes Martin felt that it was time the City Council assumed the role of responsibility in the School Board issue.

Mr. Nilous Avery felt that what the schools need now is stability at all levels.

Mr. Tom Leslie stated that he had lost all confidence in the school system and was very much concerned for the safety of the children.

Mr. Clarence Benton stated that he has found the Superintendent willing to listen and felt that everyone should try to work with and for the school system, not against it.

A woman stated that the parents need to work together and was concerned about the state of the school system.

Mr. Bob Brown voiced concern about the amount of rent that the administrative offices are paying and urged the Council to give the local delegation information relative to an elective School Board.

Mr. Larry Holt suggested dissatisfied parents volunteer to help instead of criticize.

Ms. Cheryl Warren, Haw Fletcher Assistant Principal, felt that spirits were the highest in years and there are adequate supplies for the children.

Mr. Bob Smith spoke in support of an elective School Board and felt that accountability was a key issue to be looked at.

Mayor Michalove thanked the audience for all comments and stated that the School Board is an issue the present Council wants to work on. He said that he would take into

account all that has been said. He did, however, feel that the issues are old and it is going to take a lot of help from everyone to try to deal with them. He stated that he is in favor of the appointed School Board.

Councilman Peterson felt that the School Board meetings should be opened to the public and hoped that all residents of the City would feel comfortable in coming to the City Council to voice their concerns.

Vice-Mayor Ellison hoped that regardless of the obstacles, we need to get the message to the kids to find a way to succeed.

Councilwoman Field stated that she would be happy to help in any way she can to alleviate the problems in the school system.

Councilman Swicegood suggested people contact Mr. David Hillier directly to voice their concerns.

E. CLAIMS

City Manager Bean said that the following claims were received during the week of March 2-6, 1992: Elizabeth Buchanan (Water) and Bryan Styles (Police).

He stated that for the week of March 9-13, 1992, the following claims were received: Evelyn Hood (Streets); Melissa Carpenter (Police); Charles Emery (Water); and Laurie Chandley (Water).

He said that these claims have been referred to the appropriate insurers for investigation.

VII. ADJOURNMENT

Mayor Michalove adjourned the meeting at 6:35 p.m.

William F. Holcombe
CITY CLERK

H. M. Michalove
MAYOR

PRE-COUNCIL
Worksession
3/24/92

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

RESOLUTION NO. 92-31 - RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASHEVILLE TO ENTER INTO A JOINT COOPERATIVE AGREEMENT ESTABLISHING THE ASHEVILLE-REGIONAL HOUSING CONSORTIUM

Councilman Moore moved the adoption of Resolution No. 92-31 providing for the establishment of the Asheville-Regional Housing Consortium with other participating units of general purpose local government in Buncombe, Henderson, Transylvania and Madison counties, superceding Resolution No. 92-26 which had limited the area of the consortium to Buncombe County. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 19 - PAGE 138

OLYMPIC WHITEWATER BID

Councilman Worley moved to authorize the Mayor to send a letter stating the City's desire to participate in the Olympic whitewater bid. This motion was seconded by Councilman Moore and carried unanimously.

MINORITY BUSINESS COMMITTEE APPOINTMENTS

Vice-Mayor Ellison moved to reappoint Matthew Bacoate, Gail Gouge and Ronald Blythe as members to the Minority Business Commission for one year terms, terms expiring August 1, 1992. This motion was seconded by Councilman Moore and carried unanimously.

William F. Wolcott Jr.
CITY CLERK

K. M. Michalove
MAYOR

Tuesday - March 31, 1992 - 4:00 p.m.
Asheville Civic Center - Banquet Room

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Councilwoman Field gave the invocation.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the March 17, 1992, City Council minutes.

I. PROCLAMATIONS:

A. **RESOLUTION NO. 92-32 - RESOLUTION OF APPRECIATION TO RECENT RETIREE TERRY MOORE**

Mayor Michalove read the resolution and asked that it be sent to Mr. Moore who was unable to be present at the meeting.

Upon motion of Councilman Moore, seconded by Vice-Mayor Ellison, Resolution No. 92-32 passed unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 140

B. **RESOLUTION NO. 92-33 - RESOLUTION OF APPRECIATION TO RECENT RETIREE HAROLD RAY**

Mayor Michalove read the resolution and presented it to Mr. Harold Ray who has served the City of Asheville for 15 years.

Upon motion of Councilman Moore, seconded by Vice-Mayor Ellison, Resolution No. 92-33 passed unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 141

C. **RESOLUTION NO. 92-34 - RESOLUTION OF APPRECIATION TO RECENT RETIREE HERMANN ROSENFELD**

Mayor Michalove read the resolution and presented it to Mr. Hermann Rosenfeld who has served the City of Asheville for 15 years.

Upon motion of Councilman Moore, seconded by Vice-Mayor Ellison, Resolution No. 92-34 passed unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 142

D. **RESOLUTION NO. 92-35 - RESOLUTION COMMENDING ASHEVILLE HIGH SCHOOL FOR ITS PARTICIPATION IN THE INTERNATIONAL EXCHANGE PROGRAM AND RECOGNIZING THE FOREIGN EXCHANGE STUDENTS AND TEACHER FROM JAPAN AND AN EXCHANGE STUDENT FROM NEW ZEALAND**

Mayor Michalove read the resolution and asked that Mr. Masaki Mochizuki, teacher from Japan, recognize each student and their host families.

Upon motion of Councilman Worley, seconded by Vice-Mayor Ellison, Resolution No. 92-35 passed unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 143

II. PUBLIC HEARINGS:

A. **PUBLIC HEARING RELATIVE TO ADOPTION OF AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH THE DWELLING LOCATED AT 18 IVEY STREET**

City Attorney Slawter asked that this public hearing be postponed for two weeks in order to clarify some legal concerns relative to service.

Upon inquiry of Councilman Peterson, Bob Hixson, Director of Building Inspections, stated that the cost to demolish this structure would be approximately $2,500 which will be handled in-house by the Public Works Department. He said that the City will bill the owner for this cost and if the owner is unable to pay, the City will place a lien on it.

Vice-Mayor Ellison moved to postpone this public hearing until April 14, 1992, without further advertisement. This motion was seconded by Councilman Worley and carried unanimously.

III. OLD BUSINESS:

A. **RESOLUTION NO. 92-36 - RESOLUTION AUTHORIZING THE MAYOR TO RECONVEY THE ARCHITECTURAL AND CONSERVATION FACADE EASEMENT FOR THE OLD GLOBE FURNITURE BUILDING**

Doug Bean gave a brief summary of the background information on this particular issue. He said that on January 7, 1992, DeVere Lentz, owner of the building, asked that Council table any action in order to give the Preservation Society time to see if they can come up with enough money to stabilize and restore the facade.

Mr. Harry Weiss, Executive Director of the Preservation Society, stated that the Preservation Society had presented three options to Mr. Lentz, all of which he was not interested in pursuing. He stated that Mr. Lentz was interested in a property swap, however, the Preservation Society was not able to put that together at this time.

Upon inquiry of Ralph Bishop, Assistant City Manager Charles Penny enlightened Mr. Bishop on what the City's $3,500 was spent on.

Mayor Michalove said that members of Council have been previously furnished with copies of the resolution and it would not be read in its entirety.

Vice-Mayor Ellison moved the adoption of Resolution No. 29-36. This motion was seconded by Councilman Peterson and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 144

IV. NEW BUSINESS:

A. **ORDINANCE NO. 1966 - AN ORDINANCE AMENDING SECTION 28-81.3 OF ARTICLE IV (SPEED REGULATIONS) OF CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE.**

Mr. Jim Ewing, Director of Public Works, stated that a traffic study was conducted in January, 1992, at the request of residents in the area to reduce the speed limit on Robinhood Road and Brookwood Road. As a result of that traffic study, it is the recommendation of the Public Works Department to reduce the speed limit on Robinhood Road and Brookwood Road from 35 miles per hour to 25 miles per hour.

Mayor Michalove said that members of Council have been previously furnished with copies of the ordinance and it would not be read in its entirety.

Councilman Moore moved for the adoption of Ordinance No. 1966. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 1966 passed on its first reading.

Councilman Worley moved to suspend the rules and proceed to the second reading of Ordinance No. 1966. This motion was seconded by Councilman Moore and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1966 passed on its second reading.

Councilman Moore moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1966. This motion was seconded by Councilman Worley and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1966 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 41

B. **RESOLUTION NO. 92-37 - RESOLUTION DECLARING A REASONABLE OFFICIAL INTENT TO REIMBURSE THE WATER AUTHORITY FOR CAPITAL EXPENDITURES IN CONNECTION WITH A WATER SYSTEMS IMPROVEMENT PROGRAM MADE PRIOR TO THE ISSUANCE OF TAX-EXEMPT OBLIGATIONS FOR THE PURPOSE OF FINANCING THE COST OF SUCH PROGRAM**

City Manager Bean stated that this resolution would reimburse the Water Authority approximately $1.5 Million in which they spent for the design of projects and the study and work that led up to the bond election.

Mayor Michalove said that members of Council have been previously furnished with copies of the resolution and it would not be read in its entirety.

Councilman Moore moved for the adoption of Resolution No. 92-37. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 145

C. **RESOLUTION NO. 92-38 - RESOLUTION DIRECTING THE CITY CLERK TO INVESTIGATE A PETITION RECEIVED UNDER N. C. GEN. STAT. SEC. 160A-58.1 TO ANNEX A NONCONTIGUOUS AREA ON U.S. HIGHWAY 25 (HENDERSONVILLE ROAD) KNOWN AS THE ASHEVILLE OIL COMPANY, INC., PROPERTY**

Ms. Patty Tallerday, Senior Planner, stated that the Planning Department received a petition from property owner Nick Koon asking that his property on Hendersonville Road (site of Bosco's, a new restaurant) be annexed into the City of Asheville. She said that the first step in the process is to certify the validity of the annexation petition and after that has been done, a public hearing will be set by the Council.

Mayor Michalove said that members of Council have been previously furnished with copies of the resolution and it would not be read in its entirety.

Councilman Moore moved for the adoption of Resolution No. 92-38. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 147

D. **RESOLUTION AWARDING THE BID FOR STREET AND SIDEWALK REHABILITATION PROJECT (CONTRACT NO. 6) TO PAVING ENTERPRISES, INC., AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY AGREEMENTS RELATED THERETO**

At the request of City Manager Bean, it was the consensus of Council to delay any action on this item in order to allow staff to investigate the bids further.

E. **RESOLUTION AWARDING THE BID FOR STREET AND SIDEWALK REHABILITATION PROJECT (CONTRACT NO. 11) TO APAC-CAROLINA, INC., AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY AGREEMENTS RELATED THERETO**

At the request of City Manager Bean, it was the consensus of Council to delay any action on this item in order to allow staff to investigate the bids further.

F. RESOLUTION NO. 92-39 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE A CONTRACT AND ANY CHANGE ORDER WITHIN THE BUDGETED AMOUNT WITH HUNTLEY CONSTRUCTION COMPANY, INC., FOR THE PROJECT KNOWN AS PEBBLE CREEK CONDOMINIUMS CREEK BANK STABILIZATION PROJECT

Assistant City Manager Penny said that the Pebble Creek Condominium property owners have requested the City of Asheville to make drainage improvements within the condominium property. Plans have been developed and reviewed by the property owners and the plans have met with their approval. The plans have been let out to bids and Huntley Construction Company was the low bidder in the amount of $35,145. There will need to be a 10% contingency added to this amount bringing the maximum total cost to $38,659. The Pebble Creek Condominium property owners have agreed to participate in the cost in the amount of $20,000 leaving the City's total share at $18,659. The property owners have also agreed to dedicate the City a drainage easement for future maintenance needs.

Mayor Michalove said that members of Council have been previously furnished with copies of the resolution and it would not be read in its entirety.

Councilman Moore moved for the adoption of Resolution No. 92-39. This motion was seconded by Councilman Swicegood and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 148

G. ORDINANCE NO. 1967 - BUDGET AMENDMENT TO APPROPRIATE $19,000,000 WATER BOND PROCEEDS

City Manager Bean said that this budget amendment would appropriate the $19,000,000 water bond proceeds to the Water Authority.

Mayor Michalove said that members of Council have been previously furnished with copies of the ordinance and it would not be read in its entirety.

Councilman Moore moved for the adoption of Ordinance No. 1967. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, Ordinance No. 1967 passed on its first and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 42

V. CONSENT AGENDA:

A. **RESOLUTION NO. 92-40 - RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASHEVILLE TO EXECUTE AN EASEMENT IN FAVOR OF THE CAROLINA POWER & LIGHT COMPANY FOR PROPERTY AT THE ASHEVILLE REGIONAL AIRPORT**

Summary: This resolution will authorize the Mayor to execute an agreement with Carolina Power & Light Company to install an electric line to serve various facilities for the French Broad Golf Center on property owned by the City of Asheville.

RESOLUTION BOOK NO. 19 AT PAGE 149

B. **RESOLUTION NO. 92-41 RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A MUNICIPAL AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR RAILROAD CROSSING SIGNALS IN ASHEVILLE**

Summary: This resolution will provide for the installation of railroad crossing signals at the intersection of West Haywood Street and the Southern Railroad and Cole Street and the Southern Railroad. The City will be responsible for 10% of the total project cost. The City's share of this cost is $14,000 plus $1,250 annually for maintenance of signals/gates.

RESOLUTION BOOK NO. 19 AT PAGE 152

C. **RESOLUTION NO. 92-42 - RESOLUTION REAPPOINTING A MEMBER TO THE ASHEVILLE TRANSIT AUTHORITY**

Summary: The term of Paul Hensley expired on December 31, 1991. This resolution will reappoint Mr. Hensley for a 4 year term, term expiring December 31, 1995, or until his successor has been duly appointed and qualified.

RESOLUTION BOOK NO. 19 AT PAGE 153

D. **RESOLUTION NO. 92-43 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE-BUNCOMBE CRIME STOPPERS COMMITTEE**

Summary: Virginia Washington has resigned as a member of the Asheville-Buncombe Crime Stoppers Committee. As a result of that resignation, the City Council will appoint Mr. Grant Osborne as a member of that Committee to fill the

unexpired term of Mrs. Washington, term expiring on June 30, 1993, or until his successor has been duly appointed and qualified.

RESOLUTION BOOK NO. 19 AT PAGE 154

E. RESOLUTION NO. 92-44 - RESOLUTION APPOINTING A MEMBERS TO THE BOARD OF DIRECTORS OF VICTORIA OF ASHEVILLE

Summary: The terms of Matthew Bacoate, Darlene Wilkins, John Holt, Dorothy Maitland and John Shuford expired on November 29, 1990. This resolution will reappoint Matthew Bacoate, John Holt, Dorothy Maitland and John Shuford to serve 2 year terms, terms expiring November 29, 1994, or until their successors have been duly appointed and qualified. This resolution will also appoint Stan Bradley to serve the unexpired term of Darlene Wilkins, term expiring November 29, 1994, or until his successor has been duly appointed and qualified.

RESOLUTION BOOK NO. 19 AT PAGE 155

F. RESOLUTION NO. 92-45 - RESOLUTION REAPPOINTING MEMBERS TO THE MINORITY BUSINESS COMMISSION

Summary: The terms of Matthew Bacoate, Gail Gouge and Ronald Blythe expired on August 1, 1991. This resolution will reappoint Matthew Bacoate, Gail Gouge and Ronald Blythe to serve 1 year terms, terms expiring August 1, 1992, or until their successors have been duly appointed and qualified.

RESOLUTION BOOK NO. 19 AT PAGE 156

G. RESOLUTION NO. 92-46 - RESOLUTION APPOINTING A MEMBER TO THE METROPOLITAN SEWERAGE DISTRICT BOARD

Summary: The term of Diane McDonald expired on January 19, 1992. This resolution will appoint E. Benson Slosman to serve a 3 year term, term expiring January 19, 1995, or until his successor has been duly appointed and qualified.

RESOLUTION BOOK NO. 19 AT PAGE 157

Vice-Mayor Ellison moved for the adoption of the consent agenda. This motion was seconded by Councilman Worley and carried unanimously.

VI. OTHER BUSINESS:

A. STATUS OF 10 SUNSET SUMMIT

Upon inquiry of Vice-Mayor Ellison, City Attorney Slawter stated that the City is in the process of proceedings with a tax foreclosure sale of 10 Sunset Summit and that the third reading of the ordinance to demolish the structure is on for City Council consideration on May 5, 1992.

B. REQUEST FROM RESIDENT AT 85 NORTH LIBERTY STREET

Ms. Cindy Gwen, resident of 85 North Liberty Street, asked the City Council to do whatever they could in order to locate the owner of 85 North Liberty Street (Robert James) and urge him to furnish heat and hot water to the tenants of that building.

Assistant City Manager Penny was asked to meet with Ms. Gwen and see what the City could do in this situation.

C. MIKE SUMMEY - CIBO REQUEST

Mr. Mike Summey read the following letter dated March 31, 1992, from the Council of Independent Business Owners, Inc., to the Council:

"At the most recent meeting of the board of directors of the Council of Independent Business Owners, Inc. (CIBO), a lengthy discussion occurred involving the Unified Development Ordinance (UDO) and other regulations effecting growth and development. During this discussion, a tremendous concern was expressed about the economic impact of such ordinance.

"At this meeting, the board unanimously approved sending a delegation to City Council to request that an 'Economic Impact Study' be conducted and reported to the public before any new ordinances are passed. This action was brought before the general membership meeting last Thursday and was unanimously approved by the more than eighty business owners in attendance.

"During the past thirty years, the population of the city has remained virtually unchanged in spite of the fact that the land area has more than doubled. The city's municipal credit report cites property and local option sales taxes as the major source of revenues and states these have shown steady increases. Property taxes as a percent of

spendable income have increased dramatically over the past decade. Retail sales per household have shown a sharp decline relative to the statewide average since 1989.

"The City has major needs which must be funded in the near future and the members of CIBO feel the only way these needs can be met is through economic growth and development. We realize the UDO is designed to make investment in the city easier but we are concerned there are those who will use this process to create stumbling blocks rather than building blocks. We must face the facts, there are a number of people who want no more development in Asheville.

"For these reasons, CIBO feels the only way to safeguard against regulations which keep investment out is to require a mandatory 'Economic Impact Study' before any new regulation is passed. Just as we have moved to protect our environment with 'Environmental Impact Studies', we must protect our economic well being and our children's right to good jobs and a future in the area they were raised by requiring 'Economic Impact Studies'.

"The members of CIBO urge council to take action on this request before proceeding further with the UDO process. We also offer the expertise of the business community in developing the guidelines for an 'Economic Impact Study'."

Mayor Michalove stated that Councilman Moore would let the UDO Committee know of CIBO's request.

D. RALPH BISHOP

Mr. Bishop spoke against the three minute limit on speakers to bring items before the City Council.

VII. ADJOURNMENT

Mayor Michalove adjourned the meeting at 5:15 p.m.

William S. Malcolm
CITY CLERK

W. Lee Michalove
MAYOR

Tuesday - April 7, 1992 - 4:00 p.m.
Asheville Civic Center - Banquet Room

Regular Meeting

Present: Vice-Mayor Eugene W. Ellison, Presiding; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson and Joseph Carr Swicegood; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: Mayor Kenneth M. Michalove and Councilman Charles R. Worley

Councilman Moore moved to excuse Mayor Michalove from the meeting due to his being away on business. This motion was seconded by Councilwoman Field and carried unanimously.

INVOCATION

Vice-Mayor Ellison gave the invocation.

APPROVAL OF MINUTES

Vice-Mayor Ellison announced the approval of the March 31, 1992, City Council minutes.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING THE WEEK OF APRIL 12-18, 1992, AS "PUBLIC SAFETY TELECOMMUNICATOR WEEK"

Vice-Mayor Ellison read the proclamation and presented it to Ms. Nanci Farmer, Telecommunicator for the Asheville Police Department.

B. PROCLAMATION PROCLAIMING THE MONTH OF APRIL, 1992, AS "FAIR HOUSING MONTH"

Vice-Mayor Ellison proclaimed the month of April, 1992, as "Fair Housing Month" in the City of Asheville.

C. RECOGNITION OF JOHN P. MIALL JR. AS RECEIVING THE INSURANCE INSTITUTE OF AMERICA'S ASSOCIATE IN RISK MANAGEMENT DEGREE

City Manager Bean recognized Mr. John P. Miall Jr. as having been awarded the Associate in Risk Management (ARM) designation and diploma by the Insurance Institute of America for successfully completing three national examinations that test for the person's knowledge of risk management, loss control, and risk financing principles and practices.

D. PRESENTATION OF QUALITY FORWARD

Ms. Susan Roderick, Quality Forward representative, gave a brief presentation of all the activities Quality Forward is involved with.

Councilman Swicegood stated that the City needed to cooperate as much as possible to alleviate the litter problems in the City.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO ANNEXATION OF THE BEAVERDAM RUN AREA

Vice-Mayor Ellison opened the public hearing at 4:07 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

City Manager Bean stated that on March 23, 1992, the City staff held a meeting with the residents of Beaverdam Run at the Club House in the condominium development. City staff reviewed the services that would be made available to the residents. He felt that it was an excellent meeting with a good discussion about what can and cannot be provided to the area upon annexation. He said that since that meeting, staff has met on one other occasion with representatives of the Beaverdam Run Homeowners Association and have identified several issues that need to be discussed further. He said that additional meetings would be held and hoped to have a report to the City Council as the readings of the ordinance proceed.

Ms. Patty Tallerday, Senior Planner, described the boundaries of the area proposed to be annexed. She said that the area is contiguous in that at least one-eighth of the aggregate boundary coincides with the present City of Asheville boundary. The aggregate external boundary line of the area to be annexed is approximately 8,403 feet, of which approximately 2,545 feet or 30.3% coincides with the present City of Asheville boundary.

The area to be annexed is developed for urban purposes as defined by N. C. Gen. Stat. sec. 160A-48 (c) (1) in that the area contains a total resident population equal to 2.395 persons per acre.

Major City services will be provided to persons living within the annexed area on substantially the same basis and

in the same manner as such services are provided within the rest of the municipality prior to annexation. These include police protection, fire protection, street maintenance services of public streets, sanitation collection services and water and sewer services.

On and after the effective date of the annexation, the full range of police services will be provided to the area on the same basis and manner as provided within the rest of the City. These services include regular patrol, criminal investigations, community relations/crime prevention, law enforcement and traffic control. The Police Department will increase its patrol forces by one sworn officer.

The Beaverdam Run area, proposed for annexation, includes an area within the Beaverdam Fire Service District. The City is prepared to make a good faith offer to negotiate a five-year contract, or an amendment to its current contract with the Beaverdam Volunteer Fire Department Inc. (hereinafter "Beaverdam VFD") for a new five-year term, to pay annually the amount of money that the tax rate in the district would generate, based on the property values on January 1 of each year in the area to be annexed. A letter has been received from Paul Hampton, President of the Beaverdam VFD requesting such a contract. In the event an amendment is entered into between the City and the Beaverdam VFD, fire protection service to the annexation area will be provided by both Reems Creek Volunteer Fire Department Inc. (hereinafter "Reems Creek VFD") (through its agreement with Beaverdam VFD) and the City. Response will be made by Reems Creek VFD (through its agreement with Beaverdam VFD) from its location on Beaverdam Road; primary response from the City will be from Asheville Fire Station No. 7, located on Larchmont Drive, off of Merrimon Avenue.

A private solid waste collection firm is presently providing solid waste collection services in a portion of the area proposed for annexation along Sunnyside Lane. The City will provide solid waste collection service to this area on substantially the same basis and in the same manner as is provided within the City on the date of annexation. The current level of service provides for a collection of residential refuse on a weekly basis at the curb of a public street. Each residence is allowed up to six approved containers per pick-up. Special "set-out" service to curb-side is available for qualified elderly and handicapped individuals upon request. Special collections of loose leaves and tree and shrubbery trimmings placed at curb-side are made periodically, when placed for collection in accordance with the sanitation code of the City.

Street improvements and maintenance will be provided to the approximately .2 miles of State system streets that will be annexed into the City and will be maintained on the same level provided to existing City streets. The activities include street resurfacing of public streets, scraping, stoning, and paving of unpaved public streets, pothole repairs on public streets, snow and ice control, trimming of vegetation on public rights-of-way, shoulder cut and fill maintenance on public rights-of-way, maintenance of sidewalks which are on public rights-of-way, and maintenance of street drainage structures which are on public rights-of-way.

Street lights are installed approximately every 250 feet along public streets.

An analysis of the existing water lines in the proposed Beaverdam Run annexation area indicates that Beaverdam Run condominiums are served through a six inch master meter located on Beaverdam Road, which is connected to an eight inch water line on Beaverdam Road. Improvements to the Beaverdam Run annexation area will include approximately 400 linear feet of six inch water line, a fire hydrant and approximately 350 feet linear feet of two inch water line along Sunnyside Lane to improve water service and provide adequate fire protection service.

The Beaverdam Run annexation area currently has access to sanitary sewer service. Beaverdam Run condominiums are served by a network of sanitary sewer lines connected to the eight inch collector sewer adjacent to Beaverdam Creek. Properties on Sunnyside Lane have access to this same existing collector sewer at Beaverdam Creek. There are no sanitary sewer system improvements proposed for the Beaverdam Run annexation area.

Mr. Kempton Roll, President of Beaverdam Run Homeowners Association, stated some concerns relative to how the benefits of the City would relate to condominiums owners, concern where the boundary line is drawn, since 8 additional units will be built above the proposed line, and concerns about the population calculations.

City Attorney Slawter stated that the boundary line is drawn where it is to comply with statutory requirements and to ensure compliance with the urban development requirements. He stated that the population calculations comply with the statutory authority which authorizes the City to use the census data information, which is commonly done in annexations.

Mr. Jerry Crow, attorney representing the Beaverdam Run Homeowners Association, asked the City Council to give consideration to (1) his concern relative to the drawing of the boundary line, (2) the use of the census data relative to population calculations; and (3) possible violation of the Voting Rights Act of 1965.

In response to Mr. Crow's statement that the proposed annexation area does not meet the statutory requirements for density, in that it does not have a population of at least two persons per acre, City Attorney Slawter requested that Mr. Crow make the City Council aware at the public hearing of any information to substantiate that assertion. No such information was provided.

Upon inquiry of Councilman Peterson relative to whether the residents of the proposed annexation area were in favor of annexation into the City, Mr. Roll stated that although the residents do realize the benefits of being next to the City of Asheville, he felt the majority were not in favor of the annexation because they live in a unique condominium community and they don't need the kinds of services the City has to offer.

Vice-Mayor Ellison closed the public hearing at 4:34 p.m.

IV. NEW BUSINESS:

A. SEMI-ANNUAL AFFIRMATIVE ACTION REPORT

Ms. Roxie Wynn, Assistant Personnel Director, stated that the City Affirmative Action Plan was adopted on June 22, 1988, and that Plan provides for semi-annual and annual reports. She summarized the report, which includes the status of the City's employment goals for the first six months of Fiscal Year 1991-92, stating that employment decisions were consistent with the Civil Service Law and the City's Affirmative Action Plan.

She said females represented 22.8% of the City's workforce in July of 1991, however, 32% of the City's appointments from July - December 1991 were women. This is partly due to the fact that more women are entering the workforce and seeking employment in all EEO job categories. The City was therefore successful in recruiting, training and appointing women to both traditional and non-traditional positions.

She said minorities represented 14% of the City's workforce in July of 1991. Although only 12% of the City's appointments from July - December 1991 were minorities, this is partly attributed to the Civil Service Law's promotional policy and "rule of three." The City was also, however, not as successful in recruiting minorities. As a result, fewer minorities were referred or eligible for consideration.

B. RESOLUTION NO. 92-47 - RESOLUTION AUTHORIZING THE CITY MANAGE TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE AN AGREEMENT WITH COMPLUS DATA INNOVATIONS INC.

City Manager Bean stated that the City's automated parking citation program was written in-house in 1977. He said that our present parking citation system is outdated and acceptance of the COMPLUS agreement will provide a more extensively automated system and increase the collection rate from 45% to 89% (approximately $110,000 increase). He said that all references for this company were excellent. He said the amount COMPLUS receives is based upon how much they collect (from 14.5% up to 20%).

Councilman Moore moved the adoption of Resolution No. 92-47. This motion was seconded by Councilwoman Field.

At the request of Vice-Mayor Ellison, Councilman Moore amended his motion to including a clause in the contract which states that if COMPLUS does not bring in more money than the City is currently collecting that the percentage COMPLUS receives will be lower. This was agreed to by Councilwoman Field.

Due to some questions relative to liability, Councilman Moore again amended his motion to have the contract subject to City Attorney review. This was agreed to by Councilwoman Field.

After some discussion relative to the City being bound to COMPLUS for three years, Councilman Moore agreed to amend his motion to have the City Attorney negotiate a termination clause, after one year, if COMPLUS is not performing up to the City's standards. This was agreed to by Councilwoman Field.

Vice-Mayor Ellison said that members of Council were previously furnished with copies of the resolution and it would not be read in its entirety.

The motion, with all the amendments, was unanimously adopted.

RESOLUTION BOOK NO. 19 - PAGE 158

C. RESOLUTION NO. 92-48 - RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION OF PROPERTY LOCATED AT 2310 HENDERSONVILLE HIGHWAY PURSUANT TO N. C. GEN. STAT. SEC. 160A-58.2 (ASHEVILLE OIL COMPANY INC.)

City Manager Bean said that N. C. Gen. Stat. sec. 160A-58.2, requires that upon the certification of the sufficiency of a petition for a non-contiguous annexation, the City Council shall fix a date for a public hearing on the annexation. He said the certification by the City Clerk as to the sufficiency of said petition has been made. He said the property to be considered for annexation is located at 2310 Hendersonville Highway and is owned by Asheville Oil Company Inc.

Vice-Mayor Ellison said that members of Council were previously furnished with copies of the resolution and it would not be read in its entirety.

Councilman Moore moved to adopted Resolution No. 92-48 and set a public hearing on the question of annexation of property located at 2310 Hendersonville Road for May 5, 1992. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 19 - PAGE 159

D. RESOLUTION NO. 92-49 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SECURE COVERAGE FROM THE PROVIDENT LIFE AND ACCIDENT COMPANY FOR A LONG-TERM DISABILITY PLAN FOR EMPLOYEES OF THE CITY OF ASHEVILLE

Mr. John Miall, Director of Risk Management, stated that since 1976 the City has carried a long-term disability program for the benefit of its employees with less than five years of creditable service under the Local Governmental Employees Retirement System through the Crown Life Insurance Company. He said that in 1989 Crown Life sold part of its account to Great West Life. Since that time, the City has had numerous problems in administering claims and negotiating changes to our program. Repeated efforts to resolve these problems with the incumbent carrier have been unsuccessful. For the past year numerous agents have attempted to place this coverage elsewhere to no avail. Insurance Service of Asheville has now secured a competitive quote from Provident Life and Accident Company and he recommends the purchase of that coverage at this time.

Vice-Mayor Ellison said that members of Council were previously furnished with copies of the resolution and it would not be read in its entirety.

Councilman Moore moved for the adoption of Resolution No. 92-49. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 19 - PAGE 161

D. RESOLUTION NO. 92-50 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH DELOITTE & TOUCHE FOR AUDITING SERVICES FOR THE FISCAL YEAR ENDING JUNE 30, 1992

City Manager Bean said that N. C. Gen. Stat. sec. 159-34 requires an annual independent audit. As a result of a comprehensive Request for Proposals and selection process in April and May of 1990, Deloitte & Touche were selected to perform the City's 1990 audit. The firm was reappointed for the Fiscal Year 1991 audit. Staff unanimously recommends the reappointment of the firm for the Fiscal Year 1992 audit in the amount of $49,000. Although the standard contract to audit accounts is a one-year contract, because of the nature of audit work, it is the City's practice to reappoint auditors for a period of three to five years as long as the audit work is progressing satisfactorily.

Vice-Mayor Ellison said that members of Council were previously furnished with copies of the resolution and it would not be read in its entirety.

Councilman Moore moved for the adoption of Resolution No. 92-50. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 19 - PAGE 162

V. CONSENT: NONE

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENT

Mr. Gerald Green, Senior Planner, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. He said in accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to

schedule a public hearing on the matter. He said the following action was taken by the Planning and Zoning Commission on April 1, 1992:

INGLES - HENDERSONVILLE ROAD

Mr. Green said that Ingles Markets, Incorporated, is proposing the redevelopment of an existing 6.75 acre shopping center located on Hendersonville Road. The existing shopping center, which is zoned CH, contains an Ingles grocery store, a vacant Sky City store, and other retail space.

He said plans presented by the developer call for the demolition of the Sky City store and construction of a new 40,000 square foot Ingles grocery store, demolition of all or a portion of the existing Ingles store and construction of retail space. Approximately 19,000 square feet of new retail space will be constructed as part of the project. The existing Eckerd's Drug Store will remain.

He stated that utilities and fire protection are available at a level adequate to meet the needs of the proposed development. The developer will provide new utility service lines and will abandon sections of storm drainage lines located under buildings, replacing them with new lines. The site will be improved with landscaping as required to comply with the ordinances of the City of Asheville. Variances are being requested by the developer to permit a reduction in the width of a portion of the landscape strip located along the street frontage of the site and to permit a reduction in the number of required parking spaces.

He said that after reviewing the site plan, the Planning and Zoning Commission recommended approval with the following contingencies:

1. Street trees must be spaced at least 15 feet apart;

2. City Council grant a variance to permit a reduction in width from 10 feet to 5 feet for the portion of the landscaping strip beginning at the north end of the site and ending at the planting island located in front of the 4,900 square foot retail shop;

3. City Council grant a variance to permit a reduction in the number of required parking spaces from 283 to 270; and

4. The developer must provide a revised site plan showing the proposed changes in the parking and the landscaping strip.

He said that because of the variances requested, a public hearing will need to be set.

Councilman Moore moved to schedule a public hearing on the final plat approval for the Ingles on Hendersonville Road for May 5, 1992. This motion was seconded by Councilman Peterson and carried unanimously.

B. REQUEST BY COUNCILMAN SWICEGOOD

Councilman Swicegood asked the City Manager to take a closer look at the ordinance regulating privilege license fees as it relates to people who come into Asheville and sell for one day.

C. PETITION - SHILOH COMMUNITY

Ms. Shannon Adell presented a petition to the City Council with over 200 signatures on it relative to problems the Shiloh community has been encountering and spoke in detail about the problems. The petition reads as follows:

"We, the undersigned are and have been for sometime, subjected to late night noise, litter, drug traffic, sale of alcoholic beverages, gambling, fights, desecration of church property, including the church cemetery, disrespect for individuals and general disrespect as a result of people congregating in the streets at and around the Shiloh Center and Shiloh Methodist Church, as well as other areas of our community. Therefore, we respectfully request the leadership of the City of Asheville, specifically the Police Department, Asheville Parks and Recreation Department and City Council to take the action necessary to get rid of the blight and restore some normalcy to the community."

Vice-Mayor Ellison stressed that the Police Chief has been trying to solve the problems at Shiloh, in particular the drug traffic, and felt that the people in the community needed to support the Police Department, no matter how drastic the measures are to accomplish this goal. He understood that the Buncombe County Drug Commission has been granted $375,000 in federal funds to spend over a five year period of time and suggested the Shiloh community make a presentation similar to this to the Drug Commission in hopes that they might be able to use some of those funds to relieve some problems, i.e., educate the young, etc. He

suggested some members of the Shiloh community might be interested in attending an academy that the Police Department sponsors.

Councilman Peterson assured the community that he would do all he could to help solve some of their concerns.

Councilman Swicegood echoed Councilman Peterson's statement and felt that drugs just create crime and the Council needed to take whatever action they could.

Councilman Moore spoke about the need for additional jail space that would enable the offenders to spend more time in jail.

Chief of Police Gerald Beavers spoke about the problems the police encounter when dealing with the drug trafficking. He asked for support and commitment from the community.

Ms. Mabel Hopkins asked for Council to initiate the anti-loitering ordinance, even if it was a short-term one, to help the elderly people in the community who are being held hostage because of the problems mentioned. She suggested the high visibility of the police in the community and if additional police would be required, hire them.

Councilman Peterson suggested the formation of a task force to work with the community and find solutions to the problems that they are encountering.

D. CLAIMS

City Manager Bean stated the following claims were received by the City of Asheville during the week of March 30 - April 3, 1992: H. Michael Higgins (Parks), two Southern Bell claims (Water); and Martha Linsley (Sanitation).

He said these claims have been referred to the appropriate insurers for investigation.

VII. ADJOURNMENT.

Vice-Mayor Ellison adjourned the meeting at 6:10 p.m.

William F. Holcombe
CITY CLERK

W. M. Nicholson
MAYOR

Tuesday - April 14, 1992 - 4:00 p.m.
Asheville Civic Center - Banquet Room

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Councilman Peterson gave the invocation.

MEMORY OF ROBERT MCDONALD

Mayor Michalove asked for a moment of silence due to the unexpected death on April 11, 1992, of Robert McDonald who was the City's Traffic Engineer.

WHITEWATER CANOE AND KAYAK PRACTICE COURSE

Ms. Ann Orr, on behalf of the State of North Carolina, was pleased to announce that the State has awarded the City of Asheville a grant in the amount of $30,000 for the construction of the whitewater canoe and kayak practice course. She said the funds will be administered through Riverlink.

Ms. Karen Cragnolin described the two phases of the practice course.

APPROVAL OF MINUTES

Mayor Michalove announced the approval of the April 7, 1992, City Council minutes, as amended.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING THE WEEK OF APRIL 19-25, 1992, AS "BETA SIGMA PHI WEEK"

Mayor Michalove read the proclamation proclaiming the week of April 19-25, 1992, as "Beta Sigma Phi Week" in the City of Asheville and presented it to Ms. Kathy Eaton who described some activities which will be taking place.

B. PROCLAMATION PROCLAIMING THE WEEK OF APRIL 12-18, 1992, AS "BUILDING SAFETY WEEK"

Mayor Michalove read the proclamation proclaiming the week of April 12-18, 1992, as "Building Safety Week" in the City of Asheville and presented it to Mr. Bob Hixson, Director of Building Inspections, who recognized several City inspectors.

C. PROCLAMATION PROCLAIMING THE WEEK OF APRIL 26 - MAY 3, 1992, AS "DAYS OF REMEMBRANCE OF THE VICTIMS OF THE HOLOCAUST WEEK"

Mayor Michalove proclaimed the week of April 26 - May 3, 1992, as "Days of Remembrance of the Victims of the Holocaust Week" in the City of Asheville.

D. PROCLAMATION PROCLAIMING THE WEEK OF APRIL 20-26, 1992, AS "COMMUNITY DEVELOPMENT WEEK"

Mayor Michalove read the proclamation proclaiming the week of April 20-26, 1992, as "Community Development Week" in the City of Asheville and presented it to Mr. Marvin Vierra, Community Development Director, who described some activities which will be taking place.

II. PUBLIC HEARING:

A. PUBLIC HEARING RELATIVE TO ADOPTION OF AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH THE DWELLING LOCATED AT 18 IVEY STREET.

ORDINANCE NO. 1968 - AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS DIVISION TO DEMOLISH THE DWELLING KNOWN AS 18 IVEY STREET, ASHEVILLE, NORTH CAROLINA

Mayor Michalove stated that this public hearing was postponed from March 31, 1992, without further advertisement. He then opened the public hearing at 4:20 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Bob Hixson stated that 18 Ivey Street is a two-story dwelling which has been severely damaged by fire. He said that all proper notifications have been made and the

owner has signed a Consent to Demolish form. He showed a short video which showed how severely damaged the structure is. He said the Department of Public Works will demolish it for approximately $2,500 at which time the owner will be billed for the cost. If she is unable to pay, the City will place a lien against the property.

Vice-Mayor Ellison inquired about whether or not the City could immediately start foreclosure proceedings as soon as a lien is placed on the property. City Attorney Slawter responded that in some instances there are a lot of back taxes due on the property and it wouldn't be feasible for the City to institute foreclosure proceedings on some structures that need to be demolished because the City would incur additional costs in legal fees and payment of taxes owed to the County.

Upon inquiry of Vice-Mayor Ellison, Mr. Hixson stated that as of July, 1991, the owner owed $2,506 in back taxes. He said that the value of the land without the house is $2,400.

In response to Vice-Mayor Ellison's question about whether or not the Fire Department could use this structure as a training structure and burn it, Fire Chief John Rukavina said that the Fire Department is limited to only 8 training burns a year and felt this structure would not be a good training exercise.

Mayor Michalove closed the public hearing at 4:31 p.m.

Mayor Michalove said that members of Council have been furnished with copies of the ordinance and it would not be read in its entirety.

Councilman Moore moved for the adoption of Ordinance No. 1968. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, Ordinance No. 1968 passed on its first reading.

Councilman Moore moved to suspend the rules and proceed to the second reading of Ordinance No. 1968. This motion was seconded by Councilwoman Field and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1968 passed on its second reading.

Vice-Mayor Ellison moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1968. This motion was seconded by Councilman Worley and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1968 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 44

III. OLD BUSINESS:

A. BRACKETTOWN ROAD AND WHITE PINE DRIVE REPORT

City Manager Bean summarized the City Council actions relative to the intersection of White Pine Drive and Brackettown Road as follows:

1. December 8, 1987 - A public hearing was held before City Council on the Asheville Mall expansion. After a discussion of the matter, the public hearing was continued for two weeks in order to obtain all information possible relative to alternatives to alleviate traffic problems on Brackettown Road and White Pine Drive.

2. December 22, 1987 - The continuation of the public hearing was held. At that time, the City Council approved the site plan subject to the 9 conditions recommended by the Planning & Zoning Commission and also contingent upon staff approval of the landscaping and lighting plans and construction by the Mall of a "T" intersection at Brackettown Road and White Pine Drive according to City standards and as approved by City staff. Other recommendations were made.

3. 1988 - A dispute arose between the developer and the City as to how the intersection should be constructed, culminating in the developer filing a lawsuit against the City on December 13, 1988.

4. 1989 - After the trial on the matter, the trial court judge determined that the intersection could be constructed with a minimum "Y" angle intersection of 60 degrees. The City appealed that decision to the North Carolina Court of Appeals.

5. 1990 - The North Carolina Court of Appeals overruled the trial court and determined that the approval of the site plan by the City intended that the intersection be constructed as a "T"

intersection, having a driveway angle of 90 degrees. The developer asked the North Carolina Supreme Court to review the matter. On September 4, 1990, the Supreme Court denied that request for review.

6. October, 1990 through July, 1991 - Discussions were held involving City representatives, the developer and representatives of the Kenilworth Forest Residents Association with regard to reconstruction of the intersection and widening of White Pine Drive from Brackettown Road to Tunnel Road.

7. August 6, 1991 - The matter was next considered by the City Council, at which time the City Council requested that City staff develop a plan for a "T" intersection at Brackettown Road and White Pine Drive; that the plan be submitted to the Kenilworth Forest Residents Association for review prior to the plan being submitted to City Council; and that the plan not include the widening of White Pine Drive for a full lane of traffic.

8. October 29, 1991 - The City Council was to consider a report on the matter but the matter was still under discussion and so it was postponed until November 19, 1991.

9. November 19, 1991 - A report was made to City Council with regard to the "T" intersection at White Pine Drive and Brackettown Road. At that time, the City Council determined to postpone action on the matter for 90 days and to request City staff to develop a detailed set of plans and specifications showing the City's plans for the intersection.

10. No City Council action on this matter has been taken since November 19, 1991.

City Manager Bean then stated that the developer has submitted an alternative plan which provides for a double left turn lane onto Tunnel Road, the expansion of Brackettown Road, a right hand turn exit lane, an incoming lane and realignment of White Pine Drive (Plan B). The City's plan which was requested by Council on November 19, 1991, provides for the developer to construct a "T" intersection at White Pine Drive and Brackettown Road (Plan A). At this time he passed out the plans to Council members.

Mayor Michalove stated that the Council had two actions which they could take today: 1) To accept the City's Plan A and have the developer construct the "T" intersection; or 2) If Council does something other than accept the City's Plan A, set a public hearing to amend the group development plan.

At the request of Vice-Mayor Ellison relative to a conflict of interest concern, City Attorney Slawter said he saw no conflict of interest for Vice-Mayor Ellison in his representing a man who is employed at the Asheville Mall on a criminal matter.

Mr. Richard L. Coleman Jr., representing the Asheville Mall, spoke about how the Mall has been working with the North Carolina Department of Transportation (hereinafter "DOT") in the synchronization of the light system on Tunnel Road. He quoted traffic studies done in the area (in particular a letter dated January 27, 1992, from William D. Smart, Division Engineer, DOT, stating that the intersection traffic count was 370 cars an hour at an intersection which should only handle 35 cars an hour) and felt that Plan B would overall alleviate these problems.

Upon inquiry of Councilman Swicegood about the installation of a traffic light, Mr. Coleman responded that DOT said that the traffic light at the intersection of Tunnel Road and White Pine Drive was too close to install a light at the intersection of White Pine Drive and Brackettown Road.

Councilman Swicegood asked if the traffic count done by DOT showing that at the intersection there was 370 cars an hour was an average count for a random day. Mr. Coleman responded that the count done by DOT at that intersection was for December 19 and 20, 1991.

Upon inquiry of Councilman Peterson about how long construction of Plan B would take, Mr. Coleman responded that the total construction would take approximately 10 days and can be scheduled to start in about 6 weeks.

Vice-Mayor Ellison was concerned about the safety of the residents of the Kenilworth Forest Residents Association.

Councilwoman Field asked that if Plan B was approved, would buses have an easier access to the Mall. Mr. Coleman stated that they would have an easier access but that buses just add a lot of congestion to any area.

Councilman Worley stated concerns about the safety of the residents coming down White Pine Drive and wanting to make a right turn at the intersection of Tunnel Road and White Pine Drive. He stated that they would in fact have to cross three lanes of traffic to make that right turn.

Mr. Ken Putnam, Traffic Engineer for DOT, stated that the computerized traffic light system would be in place soon on Tunnel Road. He gave traffic count statistics for the intersection in question. He stated that because of the number of vehicles through that intersection in an hour a dual left turn lane is suggested. He said that statistics show that only 20% of the traffic movement would be making a right hand turn on Tunnel Road. He said that traffic counts are performed at existing conditions on a typical day.

Upon Councilman Moore's inquiry, Mr. Putnam stated that the City's Plan A would allow the most unrestricted access for the residents to Tunnel Road by making the Mall traffic coming off of Brackettown Road make a complete stop.

Upon inquiry of Vice-Mayor Ellison, Mr. Putnam felt that there would be no real safety problem if the City approved Plan A, but felt that Plan B would help the more efficient movement of traffic. He stated that it was very possible that the City would have to improve the traffic problems at that intersection in the next ten years.

Vice-Mayor Ellison asked the City Manager for a report on the number of traffic accidents at that intersection.

Mr. Hugh Murphy, 49 White Pine Drive, President of Kenilworth Forest Residents Association, stated that the Association had approved the City's Plan A in February of 1992 and they did not even know about the developer's Plan B until the end of last week. He stated that he did, however, receive the letter Mr. Coleman was referring to from DOT on April 11. He gave a brief history of this intersection problem from the residents' standpoint. He said the Association supports Plan A 100%. He felt that Plan B would deter emergency vehicles from being able to get onto White Pine Drive in an emergency situation. He felt that this issue is not a traffic problem but a neighborhood problem.

Councilman Swicegood felt that there was in fact a traffic problem at that intersection because the traffic coming from the Mall is just too aggressive.

Upon inquiry of Councilman Peterson, Mr. Murphy stated that not all the Residents Association had an opportunity to look at Plan B.

Vice-Mayor Ellison suggested City staff address the emergency vehicle and school bus issues as it relates to gaining access to White Pine Drive on Plan B.

Vice-Mayor Ellison moved to schedule a public hearing on May 5, 1992, in order to: 1) give all parties involved an opportunity to study the two different plans, 2) study the information from the City Manager on accidents in that area; and 3) study the information relative to safety issues relating to emergency vehicles and school bus access onto and off of White Pine Drive. Councilman Moore seconded this motion and it carried unanimously.

Mayor Michalove again reminded the audience of the above two actions which Council had authority to do at the meeting today.

At 5:40 p.m. it was the consensus of Council to take a 5 minutes recess.

City Attorney Slawter said that the above motion made by Vice-Mayor Ellison was proper and that at the public hearing on May 5, 1992, Council could either approve the "T" intersection plan or, approve a revised intersection plan.

Vice-Mayor Ellison moved that the above motion be amended to reflect that the Council consider such approval at the public hearing scheduled for May 5, 1992. Councilman Moore seconded the amendment and it carried unanimously.

Vice-Mayor Ellison invited comments from members of the audience who would like to go on record.

Mr. Harold Payne, Past President of the Kenilworth Forest Residents Association, could not understand why this action was still going on when the North Carolina Court of Appeals upheld the City's approval of the site plan in December of 1987, which required the Asheville Mall to construct a "T" at the questioned intersection.

Mr. Fred Martin, 11 Spring Park Road, spoke about safety concerns for the residents coming off of White Pine Drive and urged the City Council to support Plan A.

A resident at 5 Reservoir Road felt that the Plan B would not solve the traffic problems at that intersection and was very much concerned about emergency vehicles gaining access onto White Pine Drive during the Christmas holidays.

Mr. Phil Noblitt, 297 White Pine Drive, felt that Plan A does improve the site and felt that Plan A meets some of the concerns of the residents and also some of the concerns of the Mall.

Ms. Dena Snipes, 47 White Pine Drive, felt that in the winter time with snow and ice on White Pine Drive, cars will have a hard time stopping at the stop sign if Plan B is approved.

Mr. David Fore, 4 East Shore Drive, concern about the amount of time it has taken to obey the Court order instructing the Asheville Mall to construct the "T" intersection.

Mr. Rendall Davis, 285 White Pine Drive, Past President of the Kenilworth Forest Residents Association, stated that the Asheville Mall already has 4 other entrances and 3 other exits and felt that the White Pine Drive entrance should not be another main entrance and exit for Mall patrons. He stated that there is a safety problem in that area and urged the Council to act on Plan A.

Ms. Leni Sitnick, 90 Gertrude Place, felt that the neighborhood is already being infringed upon by having the Mall so close to their neighborhood. She said the residents already have to fight the traffic every day and not only once or twice a week like the patrons of the Mall. She asked Council to be fair in their decision and supported Plan A.

Ms. Ilene Rowe, 26 East Shore Drive, felt there was a safety problem at that intersection and supported Plan A.

B. UNIFIED DEVELOPMENT ORDINANCE REPORT

Councilman Moore stated that since January the Mayor's Committee on the UDO has had three meetings at which time they have received reports from the UDO subcommittees, received the public policy issues as identified by the UDO Committee, and have instructed the Planning staff to start writing the proposed draft insofar as it is possible before the City Council comes to grips with the problem of the public policy issues. He said it has also considered a wide range of alternates and options for possible future conduct of the UDO project and after considering these carefully, the committee has decided to recommend to the rest of the City Council to defer any more action by the UDO Steering Committee until City Council has settled the major public policy issues and until the writing by the staff of the

tentative first draft of the ordinance is completed, with the understanding that the UDO Steering Committee will continue to be involved in a meaningful way in the ultimate presentation of the new ordinance to the public at an appropriate time.

Mayor Michalove said that since this is the first time the Council has heard this recommendation from the Committee, he would recommend that the Council take this recommendation under advisement and take no action on it today, but set a time at a later date when the Council decides how to deal with the UDO process in the future.

Councilman Moore moved to take the recommendation if the Mayor's Committee under advisement and set a time at a later date to decide how the Council will deal with the UDO process in the future. This motion was seconded by Councilwoman Field and carried unanimously.

Upon inquiry of Vice-Mayor Ellison, Councilman Moore said that 80% of the draft of the tentative ordinance can be completed without Council deciding on the major public policy issues. He said that they would not contemplate finalizing the first draft until after the public policy issues had been decided by the Council and then the first draft would be completed to reflect the Council's decisions on those public policy issues.

Vice-Mayor Ellison hoped the City Council would study the public policy issues and be prepared to attend one worksession where possibly all the issues could be dealt with at one time.

IV. NEW BUSINESS:

A. RESOLUTION NO. 92-51 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT TO ESTABLISH AND IMPLEMENT THE FIRE INVESTIGATION SUPPORT TEAM

Fire Chief John Rukavina said that in 1991 the City Council expressed in resolution form its support of a county-wide "arson task force" to deal with arson throughout Buncombe County. This arson task force concept has been worked out in the form of a cooperative interlocal agreement with the County of Buncombe. Execution of the agreement will formally initiate a joint effort on the part of Asheville and Buncombe County to combat arson and bring arsonists to justice throughout Buncombe County.

Mayor Michalove stated that members of Council have been furnished with copies of the resolution and it would not be read in its entirety.

Vice-Mayor Ellison moved for the adoption of Resolution No. 92-51. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 163

B. TREE/GREENWAY COMMISSION REPORT ON STREET TREE PLANTING

Ms. Susan Roderick, Chairman of the Asheville Tree/Greenway Commission, read the following excerpt of the minutes of a special meeting held by the Asheville Tree/Greenway Commission on April 13, 1992: "Because of the problems discovered with the planting of street trees on Patton Avenue, Julian Price made a motion requesting the Asheville Tree/Greenway Commission present an amended street tree plan for Patton Avenue from French Broad Avenue to Clingman Avenue requesting a tree lawn from 3' to 5' wide depending on the total width of the sidewalk. This street lawn is to be placed on the curb side of all sidewalks and incorporates the space set aside for the location of street light poles. The Tree/Greenway Commission feels that this tree lawn is better for the aesthetics, better for the health of the trees, and less expensive. It is understood that this change will not delay the project or add to the cost of the project. This motion was seconded by Karen Cragnolin and adopted unanimously."

Mr. Julian Price, member of the Tree/Greenway Commission, stated that frames for the 4x4 tree grates are $275 and the grates themselves are $500 each. He felt that if the City has not ordered these items, a tree lawn might save the City some money. He said that there is a lot of flexibility in using a tree lawn and not only grass has to be planted, but brick or stone can be used.

Upon inquiry of Councilman Peterson, Mr. Price stated that the average life of a downtown tree is 10 years. Mr. Price felt that a tree lawn would give the roots of the trees more room to grow and therefore live longer.

Councilwoman Field stated that maintenance of the tree lawn is an issue to be dealt with. She said that the property owners will have the responsibility of keeping the lawn in front of their businesses mowed and clean. She did state, however, that there has been positive comments from the property owners about having a tree lawn.

Upon inquiry of Vice-Mayor Ellison, Assistant City Manager Charles Penny said that APAC-Carolina has not yet had an opportunity to give the City a price on the tree lawn versus the tree grates.

Vice-Mayor Ellison felt that before any decisions are made, the City should wait for APAC-Carolina's financial figures, the City's engineer should look at the plan, and the Streetscape Committee should have an opportunity to look at this plan.

Councilman Peterson questioned the responsibilities of the Tree/Greenway Commission, the Streetscape Committee and the Public Works Department and who actually makes the final decisions in tree and greenway plans for the City. He felt that this was an important gateway into the City and we need to do the project right. He felt the Tree/Greenway Commission needs to be more advised and information to them more consistent.

Mayor Michalove asked the City Manager prepare a report for Council as soon as possible to include the financial information from APAC-Carolina and the advantages and disadvantages of having a tree lawn as proposed by the Tree/Greenway Commission.

Mayor Michalove also asked the City Manager to prepare a summary of how the tree grates came to be in this project, the portion of the ordinance as it relates to the Tree/Greenway Commission and how decisions have been reached for projects in the past.

Ms. Roderick suggested a Planning Department staff person attend the Tree/Greenway Commission meetings to let them know of upcoming projects. She also said that Al Kopf in the Parks and Recreation Department has been a very good liaison between them and the City.

Ms. Leni Sitnick, member of the Tree/Greenway Commission, felt that there is maintenance of any sidewalk, not only the tree lawns. She encouraged the Council to use the design skills and technological skills of the members of the Tree/Greenway Commission and members in the community and urged them to use the tree lawn on this project.

Ms. Karen Cragnolin spoke in support of using the tree lawns in this project.

C. RESOLUTION NO. 92-52 - RESOLUTION AUTHORIZING EXECUTION OF AN AMENDMENT AGREEMENT WITH THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TO FURTHER FAIR HOUSING WITHIN THE CITY OF ASHEVILLE

City Manager Bean said that this agreement will amend the Memorandum of Understanding that was executed with HUD

in 1987 which describes procedures to be followed by HUD and the City in the processing of complaints related to housing discrimination. The amended Agreement will provide for rights and remedies under the amended Fair Housing Law.

Mayor Michalove said members of Council have been furnished with a copy of the resolution and it would not be read.

Vice-Mayor Ellison moved for the adoption of Resolution No. 92-52. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 19 - PAGE 164

D. RESOLUTION NO. 92-53 - RESOLUTION AWARDING THE BID FOR STREET AND SIDEWALK REHABILITATION PROJECT (CONTRACT NO. 6) TO PAVING ENTERPRISES, INC., AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY AGREEMENTS RELATED THERETO

City Manager Bean said that City staff recommends awarding Contract No. 6 to Paving Enterprises, Inc. They also recommend that streets above a 60 rating be removed from this contract as well as Contract No. 11. He said that by removing the streets above 60, the City can reduce the contracts by a total of $938,512. He said although the amounts of the contracts are being reduced, Contract No. 6 as recommended is $1,086,305 above the budgeted amount.

He said that after moving forward with these contracts, the City recommends bidding Contract No. 13. Contract No. 13 includes streets in the east and south Asheville. The major reason for recommending Contract No. 13 versus Contract No. 12 is that the consulting engineer for Contract No. 12 will have two other street bond projects underway, and we are concerned about overloading the engineering firm.

Mayor Michalove said members of Council have been furnished with a copy of the resolution and it would not be read.

Councilman Moore moved for the adoption of Resolution No. 92-53. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 19 - PAGE 166

E. RESOLUTION NO. 92-54 - RESOLUTION AWARDING THE BID FOR STREET AND SIDEWALK REHABILITATION PROJECT (CONTRACT NO. 11) TO APAC-CAROLINA, INC., AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY AGREEMENTS RELATED THERETO

City Manager Bean said that City staff recommends awarding Contract No. 11 to APAC-Carolina, Inc. They also recommend that streets above a 60 rating be removed from this contract as well as Contract No. 6. He said that by removing the streets above 60, the City can reduce the contracts by a total of $938,512. He said although the amounts of the contracts are being reduced, Contract No. 6 as recommended is $1,086,305 above the budgeted amount.

He said that after moving forward with these contracts, the City recommends bidding Contract No. 13. Contract No. 13 includes streets in the east and south Asheville. The major reason for recommending Contract No. 13 versus Contract No. 12 is that the consulting engineer for Contract No. 12 will have two other street bond projects underway, and we are concerned about overloading the engineering firm.

Mayor Michalove said members of Council have been furnished with a copy of the resolution and it would not be read.

Councilman Worley moved for the adoption of Resolution No. 92-54. This motion was seconded by Councilman Moore and carried unanimously.

RESOLUTION BOOK NO. 19 - PAGE 168

F. BIDS FOR ONE FIRE TRUCK WITH 100 FOOT AERIAL/LADDER TOWER FOR THE FIRE DEPARTMENT

City Manager Bean recommended the low bidder, Grumman Emergency Products, Roanoke, Virginia, for one 1992 "Grumman Emergency Products" Model Panther I Low Profile cab and chassis with "Grumman Emergency Products" Model Aerial 100% Modular body and Model Aerialcat 102' Ladder Tower for a total of $445,968.26. He said that funds are budgeted in the Capital Improvements Program for Fiscal Year 1991-97.

Councilman Moore moved to award the bid to Grumman Emergency Products for one fire truck with a 100 foot aerial/ladder tower for the Fire Department in the amount of $445,968.26. This motion was seconded by Vice-Mayor Ellison and carried unanimously.

A copy of the bid summary is attached hereto as Exhibit "A".

V. CONSENT: None

VI. OTHER BUSINESS:

A. DAVE JOHNSON - RECYCLING REQUEST

Mr. Dave Johnson urged the City Council to get more involved in recycling.

B. RESOLUTION NO. 92-55 - RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASHEVILLE TO RECONVEY REAL PROPERTY TO CAROLINA WATER SERVICE INC.

City Manager Bean said that in March of 1991, the Asheville-Buncombe Water Authority authorized negotiation with Carolina Water Service, Inc., for the purchase of the Mt. Carmel water system. He said that Carolina Water Service, Inc., conveyed the Mt. Carmel water system to the City of Asheville, but inadvertently conveyed an abandoned sewage treatment plant in the Mt. Carmel Acres. He said this resolution will authorize reconveyance of that real property to Carolina Water Service, Inc.

Mayor Michalove said members of Council have been furnished with a copy of the resolution and it would not be read.

Councilman Moore moved for the adoption of Resolution No. 92-55. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 19 - PAGE 170

C. CLAIMS

City Manager Bean said the following claims were received by the City of Asheville during the week of April 6 - 10, 1992: L.J. Realty (Water) and Andrew Blakeney (Police).

He said these claims have been referred to the appropriate insurers for investigation.

VII. ADJOURNMENT

Mayor Michalove adjourned the meeting at 7:25 p.

William F. Walcott
CITY CLERK

H. M. Michalove
MAYOR

BID SUMMARY
BID REQUEST NO. 396-92

CITY OF ASHEVILLE
PURCHASING DIVISION

BID OPENED: FRIDAY, APRIL 3, 1992 - 3:00 P.M.

ONE FIRE TRUCK WITH 100 FOOT AERIAL/LADDER TOWER FOR THE FIRE DEPARTMENT

	GRUMMAN EMERGENCY PRODUCTS ROANOKE, VIRGINIA	NOVA-QUINTECH CORPORATION ST FRANCOIS-dU-LAC, QUEBEC, CANADA	SUTPHEN CORPORATION AMLIN, OHIO	* SUTPHEN CORPORATION AMLIN, OHIO
CAB & CHASSIS				
MAKE:	Grumman Emergency Products	Spartan	Sutphen	Sutphen
MODEL:	Panther I Low Profile	Monarch 4 door	TS-100	TS-100
YEAR:	1992	1992	1993	1993
BODY				
MAKE:	Grumman Emergency Products	Thibault	Sutphen	Sutphen
MODEL:	Aerial 100% Modular	AL-SKYPOD	TS-100	TS-100
LADER TOWER				
MAKE:	Grumman Emergency Products	Thibault	Sutphen	Sutphen
MODEL:	Aerialcat 102'	Skypod 100 ft.	TS-100	TS-100
TOTAL BID:	**$445,968.26	$452,025.00	$467,366.67	$480,885.67
PAYMENT TERMS:	Net Upon Delivery & Acceptance	Net Upon Acceptance	Net Upon Delivery	Net Upon Delivery
DELIVERY:	30 - 120 Calendar Days	304 Calendar Days	300 - 365 Calendar Days	300 - 365 Calendar Days
BID DEPOSIT:	5% Bid Bond	5% Bid Bond	5% Bid Bond	5% Bid Bond

*Denotes an alternate bid.
**Unit subject to prior sale. Price expires May 3, 1992.

Exhibit "A"

BID SUMMARY
BID REQUEST NO. 396-92

CITY OF ASHEVILLE
PURCHASING DIVISION

BID OPENED: FRIDAY, APRIL 3, 1992 - 3:00 P.M.

ONE FIRE TRUCK WITH 100 FOOT AERIAL/LADDER TOWER FOR THE FIRE DEPARTMENT

	EMERGENCY APPARATUS, INC. DURHAM, N. C.	* EMERGENCY APPARATUS, INC. DURHA, N. C.	* EMERGENCY APPARATUS, INC. DURHAM, N. C.	* EMERGENCY APPARATUS, INC. DURHAM, N. C.
CAB & CHASSIS				
MAKE:	Emergency One, Inc.	Emergency One, Inc.	Emergency One, Inc.	Emergency One, Inc.
MODEL:	H700	H710	H710	H700
YEAR:	1992	1991	1991	1991
BODY				
MAKE:	Emergency One, Inc.	Emergency One, Inc.	Emergency One, Inc.	Emergency One, Inc.
MODEL:	L095	L097	L097	L095
LADER TOWER				
MAKE:	Emergency One, Inc.	Emergency One, Inc.	Emergency One, Inc.	Emergency One, Inc.
MODEL:	95' Aerial Platform	95' Aerial Platform	95' Aerial Platform	95'Aerial Platform
TOTAL BID:	$487.912.50	$521,244.50	$511,889.50	$502,234.50
PAYMENT TERMS:	5 Days After Acceptance	5 Days After Acceptance	5 Days After Acceptance	5 Days After Acceptance
DELIVERY:	240 Calendar Days	60 Calendar Days	60 Calendar Days	60 Calendar Days
BID DEPOSIT:	5% Bid Bond	5% Bid Bond	5% Bid Bond	5% Bid Bond

*Denotes an alternate bid.

BID SUMMARY
BID REQUEST NO. 396-92

CITY OF ASHEVILLE
PURCHASING DIVISION

BID OPENED: FRIDAY, APRIL 3, 1992 - 3:00 P.M.

ONE FIRE TRUCK WITH 100 FOOT AERIAL/LADDER TOWER FOR THE FIRE DEPARTMENT

	SPARTAN FIRE & EMERGENCY APPARATUS SPARTANBURG, S. C.	SIMON LADDER TOWERS, INC. EPHRATA, PENNSYLVANIA
CAB & CHASSIS		
MAKE:	Pierce Manufacturing Inc.	Simon Ladder Towers, Inc.
MODEL:	Pierce Aerial Platform - 100	Olympian
YEAR:	1992	1991
BODY		
MAKE:	Pierce Manufacturing Inc.	Simon Ladder Towers, Inc.
MODEL:	PAP-100	Center/Center
LADER TOWER		
MAKE:	Pierce Manufacturing Inc.	Simon Ladder Towers, Inc.
MODEL:	PAP-100	ST-2000 - 100 Foot
TOTAL BID:	$506.721.00	$505,926.00
PAYMENT TERMS:	3/4%10; 1/2%15; 1/4%20/N-30 Days	Net 90% Upon Acceptance, Balance Upon Completion of Training
DELIVERY:	425 Calendar Days	June 15/ 1992
BID DEPOSIT:	5% Bid Bond	5% Bid Bond

The following companies submitted a 'No Bid': Zimmerman-Evans, Inc., Greensobor, N. C.; Slagles's Fire Equipment & Supply, Inc., Cayce, S. C.; and Alexis Fire Apparatus Company, Alexis, Illinois

CAuth

DEPARTMENT OF CULTURAL RESOURCES

DIVISION OF ARCHIVES AND HISTORY

ARCHIVES AND RECORDS SECTION

CERTIFICATE OF AUTHENTICITY

This is to certify that the microphotographs appearing on this film are true and accurate reproductions of records originated during the normal course of business by the City of Asheville Buncombe County and consist of Minutes and Includes Index

The records begin with Volume: 59 Page: 1 Year: June 4, 1991

and end with Volume: 59 Page: 390 Year: April 14, 1992

It is further certified that the above records were microfilmed in conformity with the provisions of the *General Statutes of North Carolina*, chapter 8-45.1 and 8-45.4, *"Uniform Photographic Copies of Business and Public Records as Evidence Act"*; that the microphotography processes accurately reproduce the records so microfilmed; that the film forms a durable medium for reproducing the original, if necessary; and that the film used conforms to American National Standards Institute, *Photographic Films-Specifications for Safety Film,ANSI IT9.6-1991* and American National Standards Institute, *Imaging Media (Film)-Silver Gelatin Type-Specifications for Stability, ANSI NAPM IT9.1-1992.*

This is further to certify that the microphotography processes were accomplished by the undersigned on the date and at the reduction ratio indicated below.

Date filming of this reel began 7/15/97 Reduction Ratio 32X

Date filming of this reel ended 7/15/97

Marian L. Jones

Microfilm Camera Operator

NCDAH

END

OF REEL

PM-MGP
METRIC GENERAL PURPOSE TARGET
PHOTOGRAPHIC

200 mm

150 mm

100 mm

A5

A4

A3

1.0 mm

1.5 mm

2.0 mm

2.5 mm

1.0

1.1

1.25

1.4

1.6

1.8

2.0

2.2

2.5

2.8

3.2

3.6

4.0

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abcdefghijklmnopqrstuvwxyz
1234567890

PRECISION[SM] RESOLUTION TARGETS

PIONEERS IN METHYLENE BLUE TESTING SINCE 1974

MicroD INTERNATIONAL

3308 - 134th STREET WEST, BURNSVILLE, MN 55337 USA
TEL: 612 895 8699 FAX 612 895 8688

ABCDEFGHIJKLMNOPQRSTUVWXYZ
abcdefghijklmnopqrstuvwxyz
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4.5 mm

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